United Nations S/PV.6977

Security Council

Sixty-eighth year

Provisional

6977th meeting
Wednesday, 12 June 2013, 10 a.m.
New York

President:	Sir Mark Lyall Grant	(United Kingdom of Great Britain and Northern Ireland)
Members:	Argentina	Ms. Millicay
	Australia	Mr. Quinlan
	Azerbaijan	Mr. Mehdiyev
	China	Mr. Li Zhenhua
	France	Mr. Briens
	Guatemala	Mr. Rosenthal
	Luxembourg	Ms. Lucas
	Morocco	Mr. Bouchaara
	Pakistan	Mr. Masood Khan
	Republic of Korea	Mr. Kim Sook
	Russian Federation	Mr. Churkin
	Rwanda	Mr. Nduhungirehe
	Togo	Mr. Menan
	United States of America	Mr. DeLaurentis

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Letter dated 23 May 2013 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2013/308)

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13-36112 (E)

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Letter dated 23 May 2013 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2013/309)

Letter dated 23 May 2013 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2013/310)

The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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The President: In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Bosnia and Herzegovina, Croatia, Liechtenstein, the Netherlands and Serbia to participate in this meeting.

On behalf of the Council, I welcome the presence in the Security Council today of Mr. Nikola Selaković, Minister of Justice and Public Administration of the Republic of Serbia.

Under rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia and President of the International Residual Mechanism for Criminal Tribunals; Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda and Prosecutor of the International Residual Mechanism for Criminal Tribunals.

Under rule 39 of the Council's provisional rules of procedure, I invite Mr. Thomas Mayr-Harting, Head of the Delegation of the European Union to the United Nations, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to documents S/2013/308, S/2013/309 and S/2013/310, which contain letters dated 23 May 2013 addressed to the President of the Security Council from, respectively, the President of the International Criminal Tribunal for the Former Yugoslavia, the President of the International Residual Mechanism for Criminal Tribunals and the President of the International Criminal Tribunal for Rwanda.

I now give the floor to Judge Meron.

Judge Meron: It is an honour for me to appear before the Security Council again as the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and as the President of the International Residual Mechanism for Criminal Tribunals. I congratulate His Excellency Sir Mark Lyall Grant, Permanent Representative of the United Kingdom, upon his country's assumption of the presidency of the Security Council. The United Kingdom has long been a strong advocate of international justice, and I wish it every success in its presidency.

As was the case last December (see S/PV.6880), I am appearing before the Council today in two capacities and will accordingly deliver two reports: one on the ICTY's progress in relation to its completion strategy and another on the ongoing work of the Mechanism in preparation for the launch of The Hague branch of the Mechanism in a few short weeks.

Written reports concerning both institutions were presented to the Council last month. In addition, the Council will recall that a confidential report in relation to the ICTY was submitted in April, in accordance with resolution 2081 (2012). In my remarks today, I wish to

provide an overview of a few key issues contained in those written reports, and I will not repeat the contents of the reports in detail.

Before doing so, however, I would like to take this opportunity to express my gratitude to the Security Council's Informal Working Group on International Tribunals, operating under the excellent leadership of Guatemala, for the Working Group's sustained support for the work of the Tribunal. I would also like to recognize the invaluable assistance provided to the ICTY and the Mechanism by the Office of the Legal Counsel.

Allow me first to update the Council on the progress being made by the ICTY towards the completion of its mandate and its closure.

The Tribunal has achieved much since I submitted a written report to the Council last fall. The Tribunal has completed the trials in three cases: those of Haradinaj et al., Tolimir, and Stanišić and Župljanin. Since my written report was submitted in May, two more trials have been completed, with the issuance of trial judgements in the cases of Prlić et al., and Stanišić and Simatović at the end of May.

As detailed in my May report to the Council, the Tribunal has also completed the appeal proceedings in two cases: Lukić and Lukić, and Perišić. Other cases on appeal are moving ahead, with appeal hearings held in the complex, multi-appellant case of Šainović et al., as well as in the *Đorđević* case and in the rule 98 bis appeal in the *Karadžić* case.

Only four trials concerning the core statutory crimes now remain to be completed. Three of those trials involve the late-arrested accused, Karadžić, Hadžić and Mladić. The *Hadžić* case remains on track and is expected to be completed by the end of 2015. The Mladić trial is likewise proceeding apace and is expected to conclude by mid-2016, as previously forecast.

The *Karadžić* case, originally anticipated to be completed by the end of December 2014, is now anticipated to be completed by July 2015. As detailed in my written report submitted in May, there are numerous factors leading to that recalculation.

The only other remaining case at trial is the *Šešelj* case. The Trial Chamber has now scheduled delivery of the judgement in this case for 30 October 2013, three months later than forecast in my written report last November. The reasons for this delay include the departure of senior staff members as well as the simultaneous involvement of all Judges on the bench in other, ongoing cases.

Turning to the Tribunal's appellate cases, I wish to first pause and express my gratitude to Security Council members for their recognition of the need to restore the ICTY to the full complement of permanent Judges and the work that they have done in relation to this matter.

A judgement in the rule 98 bis appeal in the *Karadžić* case is anticipated by July 2013. It is also expected that the multi-appellant case of Šainović et al. will be completed by December 2013, as previously projected. The appeal judgement in the *Đorđević* case is now expected by December 2013, two months later than the previous forecast. That postponement is attributable to the need to replace a Judge on the bench due to her resignation from the Tribunal, the heavy workload of the other Judges on the bench, and other factors, as set forth in my May report.

There has also been a small delay in the projected completion of the appeal judgement in the multi-appellant case of Popović et al., which is now anticipated to be completed in October 2014. As explained more fully in my written report submitted in May, that change was occasioned by complexities in the case which have required additional preparations in advance of the appeal hearing.

For those cases that have experienced changes in projected end dates, a number of different measures have been adopted to minimize delays, including the reassignment of additional legal staff members to assist in judgement drafting.

As previously reported to the Council, it is currently anticipated that appeals in three cases are expected to go beyond 31 December 2014. In two of those cases, Tolimir and Stanišić and Župljanin, the forecasted completion dates for the appeals are just a few months past the target date. We continue to look for ways to bring the projected completion dates for these cases, and, indeed, all of our cases, forward. However, any appeals in the third case, that of Prlić et al., are only expected to be completed in mid-2017.

With respect to the *Prlić et al.* case, I note that there is still a possibility that any appeals filed in that case may go to the Mechanism, rather than the Tribunal. We

will have to see what happens. Similarly, it is not yet clear whether any appeals in the *Stanišić and Simatović* case will go to the Mechanism or to the ICTY.

In sum, while the Tribunal has made tremendous progress in many respects, there have been some delays in certain proceedings, as fully explained in my report to the Council. I deeply regret those delays. But I hasten to remind the Council that many of the factors leading to the delays are not uncommon to judicial and criminal proceedings the world over.

More importantly, while unexpected developments may give rise to delays in any criminal case, the impact of such developments on the efficient completion of proceedings is magnified by the unique situation and mandate of the Tribunal. Thus, for example, the typical difficulties and unpredictability involved in identifying, preparing and presenting evidence are multiplied many times over in a Tribunal situated far from the site of the alleged crimes, when most witnesses must be brought from thousands of kilometres away to appear in court, and when the official languages of the Tribunal differ from those of the accused and most witnesses, necessitating constant translations of witness testimony and extraordinary amounts of documentary evidence.

The breadth and complexity of the crimes and modes of individual criminal responsibility alleged in the Tribunal's cases only compound those challenges further. As I have previously explained to the Council, the pending closure of the Tribunal also produces its own challenges, primarily that of retaining the highly qualified and experienced staff members so necessary for the Tribunal's expeditious and orderly closure.

I wish to underscore that all efforts are being made on the part of the Tribunal to complete its pending judicial work as quickly as possible while fully respecting the fundamental rights of the accused and the appellants to due process in accordance with international standards. As set forth in the 15 April written report to the Council, the Tribunal has also developed a consolidated, comprehensive plan that sets forth the processes and procedures for the Tribunal's eventual closure. In the meantime, my colleagues and I at the Tribunal remain grateful to the Council for its continued support, just as I remain grateful to the Judges and all of the staff of the Tribunal for their deep commitment to our work.

I would now like to turn to the work of the International Residual Mechanism for Criminal Tribunals.

At the outset, I am very pleased to advise that all arrangements are in place to ensure a seamless transfer of functions from the ICTY to The Hague branch of the Mechanism on 1 July 2013, in full compliance with the requirements of resolution 1966 (2010). I have every expectation that, as the Mechanism officially becomes a transcontinental institution, it will continue to operate as smoothly as it has done since the opening of the Arusha branch last July. In that respect, I wish to express my gratitude to the Mechanism's Registrar and Prosecutor for helping to make that possible.

Upon the opening of The Hague branch in July and in accordance with its mandate, the Mechanism will assume responsibility for a variety of functions inherited from the ICTY, including the enforcement of sentences, the provision of assistance to national jurisdictions and the protection of victims and witnesses in completed trials of the ICTY. The Mechanism will also assume the authority to hear appeals against judgements or sentences handed down by the ICTY where the notice of appeal is filed after 1 July 2013, as already mentioned; the authority to conduct reviews of judgements handed down by the ICTY and to try contempt cases; and the authority to decide on requests for pardon or commutation of sentences. The Mechanism has already taken on responsibility for managing the archives of both the ICTY and the ICTR, although the latter retains responsibility for the preparation of its records for transfer to the Mechanism.

From an administrative standpoint, all is going well. The Mechanism has issued a number of practice directions and promulgated other policies, thereby developing further its legal and regulatory framework. Work on the Mechanism's permanent premises in Arusha is on track and funding is in place. The Mechanism is grateful for the support and cooperation of the Government of the United Republic of Tanzania in relation to that project.

Turning to the Mechanism's judicial work, I note that there have been a number of rulings, as set forth in more detail in my written report (S/2013/309, annex I). Since my previous report to the Council, the Mechanism has received its first appeal from judgement, in the *Ngirabatware* case. As I mentioned earlier, additional appeals from ICTY trial judgements are expected in the

future, including potential appeals in the cases of *Šešelj*, *Karadžić*, *Hadžić* and *Mladić*. The Mechanism has also been seized of a number of motions and requests in relation to certain contempt allegations. That litigation is an example of the sort of unanticipated ad hoc judicial activity that may arise before the Mechanism.

Finally, in my role as President, I have issued decisions in relation to the enforcement of sentences and on a request for review of an administrative decision. Meanwhile, ICTR President Vagn Joensen, who has been serving as the Mechanism's Duty Judge in Arusha, has likewise ruled on a variety of matters. I am very grateful to President Joensen for his work on behalf of the Mechanism, and for being such a collegial and effective partner of the Mechanism in his capacity as President of the ICTR.

In addition to its responsibility for its own cases, the Mechanism is also responsible, with the assistance of international and regional organizations and bodies, for monitoring cases referred by the ICTR to national courts for trial. As explained in my written report, two cases were referred by the ICTR to France for trial there. Pending finalization of arrangements with an international organization to assist in the monitoring of the two cases, the Mechanism has made interim monitoring arrangements. I am most grateful to the French authorities for their cooperation in relation to the matter.

The ICTR has also referred a number of cases for trial in Rwanda. Although some of the cases involve individuals who are still fugitives, in the case of *Uwinkindi* a trial is expected to commence later this year. Pending the finalization of monitoring arrangements, the ICTR staff has been conducting interim monitoring of the ongoing pre-trial proceedings.

I wish to thank the Rwandan authorities for their cooperation in facilitating the monitoring, which is an important aspect of the Mechanism's mandate, and, more generally, for the warm welcome I received upon my first official visit to Kigali last December. I am most grateful for the open and frank discussions I had while there and for Rwanda's ongoing cooperation with the Mechanism. Following the opening of The Hague branch, I look forward to building on existing relations with States in the former Yugoslavia to develop similarly productive and cooperative relationships with those States.

Turning to the issue of the enforcement of sentences, I would like to express my concern regarding the situation in Mali, where 17 persons convicted by the ICTR are serving their sentences. Those 17 individuals are now the responsibility of the Mechanism, and the Mechanism's Registrar is monitoring the security situation closely. The Mechanism is also taking steps to implement recommendations made by an independent penitentiary expert whom the Registrar hired to review enforcement practices in the two countries currently enforcing ICTR sentences, namely, Mali and Benin. At the same time, the Mechanism is looking to increase its capacity to enforce sentences in Africa and is actively taking steps to enter into the enforcement of sentences agreements with new States. The cooperation and leadership of the Council and its members in that regard would be much appreciated.

Since the opening of its Arusha branch, the Mechanism has received and addressed a number of requests from national authorities for assistance in relation to national investigations, prosecutions and trials of individuals charged in relation to the genocide in Rwanda. On 1 July, the Mechanism will assume similar responsibilities in relation to requests related to events in the former Yugoslavia.

Finally, I would remind the Council that the Mechanism is responsible for the trial of three individuals who were indicted by the ICTR. The arrest and transfer of those three fugitives to the Mechanism's custody remains a top priority, and Prosecutor Jallow has primary responsibility in that regard. But as we have learned from experience at the ICTY, where the last two fugitives were finally arrested in 2011, thanks to the work of Serbian authorities and ICTY Prosecutor Serge Brammertz, Member States play an invaluable role in ensuring that fugitives are apprehended.

The United States recently reaffirmed its commitment to offer financial rewards to individuals who provide information leading to the arrest or transfer of certain fugitives, including all nine ICTR-indicted fugitives, through its War Crimes Rewards for Justice Program. We are very grateful to the United States for its initiative in that regard. I call upon other Member States to take steps to ensure that all of the remaining ICTR-indicted fugitives, whether they end up being tried by the Mechanism or by Rwanda, are arrested and brought to trial. Thanks to the dedication and cooperation of Member States, the ICTY has been

able to account for all 161 of the individuals whom it has indicted.

It is vital for the ICTR's legacy, and indeed for the cause of international justice, which we all hold so dear, that we ensure a similar result for those indicted by the ICTR.

Before closing, I must acknowledge an important milestone: 25 May 2013 marked 20 years since the Tribunal's establishment by the Council in resolution 827 (1993). The Tribunal's principals, Judges and staff, together with dignitaries representing a large number of Member States and a host of others, commemorated this occasion in the presence of His Majesty the King of the Netherlands and the United Nations Under-Secretary-General for Legal Affairs and Legal Counsel, Patricia O'Brien.

I am grateful to the Council for its statement recognizing this important milestone and the Tribunal's contributions over the past 20 years. I am equally grateful to it for recognizing that the Mechanism plays an essential role in ensuring that the impending closure of the ICTY and the ICTR will not leave the door open to impunity. As Under-Secretary-General O'Brien remarked on the occasion of the ICTY's twentieth anniversary, a new "age of accountability is becoming a reality". That is in good measure due to the work of the ICTY over the past two decades. With the sustained support of the international community and the Council in particular, the Mechanism will carry that strong legacy forward in the years ahead.

The President: I thank Judge Meron for his briefing, and I now give the floor to Judge Joensen.

Judge Joensen: I would like to begin by congratulating the delegation of the United Kingdom on its presidency of the Security Council for June. I wish you all the best for a successful tour of duty, Mr. President.

It is a great honour for me to address the members of the Security Council and present to them the current update on the completion strategy of the International Criminal Tribunal for Rwanda (ICTR). I wish to express the appreciation of the entire Tribunal to all of the Governments represented on the Council for their continuing support as we draw ever closer to the conclusion of our work.

The ICTR has now completed all trial work, has successfully met all timelines projected in December for appeals, and has finalized its decision to transfer the second case of an accused in custody to Rwanda. Five of the six remaining ICTR appeals cases remain on track for completion before the end of 2014, and the transfer to the Mechanism of judicial records not in active use is expected to be completed by the end of 2014. The Mechanism is now handling its first appeal from an ICTR trial judgement, and I have been actively involved in judicial matters handed over to the Mechanism in my role as Duty Judge of its Arusha branch. Relocating acquitted persons and those released after completing their sentences in Tanzania remains a pressing concern and will require the enhanced cooperation of Member States. Finally, owing to difficulties that I will explain shortly, the ICTR is now projecting completion of its final appeals judgement in the *Butare* case by July 2015.

I will begin by explaining the status of the trials and appeals. I am happy to report that all substantive trials have now been completed with the delivery of the trial judgement in the *Ngirabatware* case in December 2012. Thanks to the continued hard work and dedication of our staff, the ICTR successfully met its timelines for trials and appeals as projected when I last addressed the Council six months ago (see S/PV.6880). As expected, the notice of appeal in the *Ngirabatware* case has been filed with the Mechanism, marking the first time that it will handle an appeal from judgement in a case before the ICTR or the International Criminal Tribunal for the Former Yugoslavia. That is an important milestone in our transition. I would also like to call the Council's attention to the fact that the Appeals Chamber has met its accelerated projections to date, delivering one appeal judgement concerning two persons in the case of *Mugenzi and Mugiraneza* in February. It also rendered a final decision upholding the Trial Chamber's referral of the *Munyagishari* case to Rwanda on 3 May. Bernard Munyagishari is expected to be transferred to Rwanda imminently, and appeals projections in the remaining cases have stayed roughly the same, save for the *Butare* appeal slipping into 2015.

Five of the six remaining appeals cases concerning nine of the remaining 16 persons are still expected to be disposed of before the end of 2014, and the final multi-accused appeal judgement concerning six persons in the *Butare* case is now anticipated by July 2015. This slip in the final case's projected completion was caused by inability of our language services to meet the accelerated plans for translation of the *Butare* trial judgement and other documents pertaining to the

appellate proceedings, which the defence is legally entitled to receive in a language that the accused can understand before filing their appeal briefs. Although the Tribunal made every effort to meet the accelerated schedule by providing the translated *Butare* trial judgement by August 2012, with the remaining staffing levels in our language section, the final French version could be completed and delivered to the parties only in February. That meant that the briefing schedule for the appeal had to be pushed back as well. Additionally, after reviewing the written judgement in a language they could understand, several appellants requested leave to expand the scope of their appeals beyond that in their original Notices of Appeal, which the projected *Butare* completion date of December 2014 was based on. All those circumstances have led to the current projected completion date of July 2015. In all other cases, however, I am happy to report that the appeals work remains on schedule and all appeals except *Butare* are on track to be completed in 2014.

I would next like to take this opportunity to express my gratitude to the Council for its adoption of resolution 2080 (2012), which extended the terms of the ICTR Appeals Chamber Judges until the end of 2014 or until completion of the cases to which they are assigned, if sooner. The swift action taken on that request has helped ensure that the Tribunal will continue to meet its completion strategy targets. As projected in our last report, two of the three judges on the *Ngirabatware* case demitted office after completion of their final case, and the third, Judge William H. Sekule of Tanzania, was redeployed to the Appeals Chamber in March 2013, bringing the number of permanent judges sitting in the Appeals Chamber to 11 at that time. On 31 May, Judge Andrésia Vaz of Senegal resigned from her position as appeals judge, returning the total to 10 judges on the appeals bench. The preeminent knowledge and experience that Judge Vaz brought to the bench will be sorely missed. and reassigning the 10 cases she was working on has increased the strain on the other judges. In order to try to mitigate any detrimental effect on the completion of appeals work that would come with the loss of such an esteemed judge, I will be sending a letter to the Secretary-General requesting the swift appointment of a replacement for Judge Vaz, and expressing how important it is that the replacement judge have a deep knowledge and understanding of the Tribunal's jurisprudence and practice, so that no time will be lost in dealing with the heavy workload remaining for appeals.

I turn now to an important issue that the ICTR has been raising with the Council for several years. The enhanced cooperation of Member States to assist with our persistent and increasingly dire problem of relocating persons who have been acquitted or released after completion of sentence by the Tribunal is crucial to the completion of our mandate. I continue to see as a cornerstone of my presidency the deployment of all possible efforts in that regard; during the reporting period, I increasingly applied my energies to persuade Member States to assist with relocation.

There are now seven acquitted persons, one of whom was acquitted in 2004, and three persons released after the completion of their sentences who remain in safe houses in Arusha, under the Tribunal's protection. Those 10 individuals remain on Tanzanian territory without proper immigration status and are unable to move freely. The ICTR is deeply concerned about the consequences of failing to uphold the fundamental right of freedom to live one's life after being acquitted. The importance of finding host countries for those persons before the Tribunal closes cannot be stressed enough.

That is why I have worked closely with the Registrar to develop a strategic relocation plan which was recently submitted to the Informal Working Group on International Tribunals. We call upon all Member States, in particular those members of the Council in a position to do so, to assist with that persistent problem, and thank those that have already enhanced their cooperation with the Tribunal in that respect.

I next turn to downsizing and the transition to the Mechanism. The Tribunal continues to face staff recruitment and retention challenges arising from the downsizing process. Where recruitment is required, the ICTR continues to have difficulty attracting suitably qualified candidates given the limited contractual security that it can provide as a closing institution. The Tribunal also is still experiencing difficulties in retaining experienced staff due to the lack of financial incentives to stay and complete their work and the lack of possibilities for upward mobility.

I once again wish to express the gratitude of the Tribunal to the Department of Management, especially the Office of the Controller and Human Resources Management, which have steadily assisted the ICTR in meeting the challenges to preventing any further delay in the completion of its mandate. Their collaboration on implementing mitigating strategies in line with the

applicable staff rules and regulations has also afforded staff members much-needed support in transitioning from the ICTR to other careers.

Despite the persistent staffing challenges, the Tribunal has successfully met its projected deadlines and remains with only appellate work and the continuation of the transition to the Mechanism, going forward. The transition is well under way, as the handover of judicial functions to the Mechanism is now complete and, as the Prosecutor will describe in more detail, a smooth transfer of prosecutorial tasks remains on track.

In addition to the Ngirabatware appellate proceedings, the Mechanism's jurisdiction now encompasses requests for review of ICTR judgements, trials for contempt of court or false testimony from ICTR trials and trials of the remaining three top-priority ICTR fugitives, once arrested.

The monitoring of all referred cases also falls under the Mechanism's responsibility, although the ICTR Registrar and I will continue to help oversee the administration of the interim monitoring of the Uwinkindi trial and that of Bernard Munyagishari, once he is transferred to Rwanda by ICTR staff, until the Mechanism concludes a final agreement with an organization in each case.

I would like to take this opportunity to thank President Meron and Registrar Hocking for the excellent cooperation between the ICTR and the Mechanism throughout the transition, which I am confident will continue until the handover is complete.

With respect to the preparation of the ICTR's archives, much progress was made during the reporting period, as the Tribunal is now in a position to transfer 40 per cent of its hard-copy records to the custody of the Mechanism, including 60 per cent of the judicial records. The actual handover process for those records is scheduled to begin later this month, since renovations of the temporary record repositories — which will house the records until they are moved to the Mechanism's new building — are almost finalized.

The target date for the completion of the records handover process remains December 2014, and we anticipate that all closed judicial records will have been handed over by then. However, we must bear in mind that some records which are still in active use in support of the functions of the ICTR, including active files related to the *Butare* case, will remain our responsibility and can only be transferred once they are no longer in use. Those records are expected to be handed over as part of the liquidation process after the ICTR's formal closure.

I will conclude with some thoughts on our place in history. Since its inception, the ICTR has sought to contribute to the process of reconciliation in Rwanda by helping to restore a sense of justice and playing a role in the development of a lasting peace in the Great Lakes region. Rebuilding that sense of justice has paved the way for moving past the events of 1994. The Tribunal has helped to ensure that those events are never forgotten through its outreach and capacity-building initiatives, and we recognize the need to ensure that the Tribunal's records are readily accessible to the people of Rwanda in posterity.

The transition to the Mechanism, which is notably tasked with maintaining and furthering the Tribunal's legacy, marks the etching of a new chapter into the history of international law. The writing of that next chapter has already begun, with the work of the International Criminal Court and the Special Tribunal for Lebanon. With the impending closure of the ad hoc Tribunals, the Mechanism will ensure that their legacy is preserved and that the lessons learned are shared with their successors.

Before facing the renewed challenges that the next chapter will bring, we would, however, be remiss if we did not underline how far we have come with Member States' cooperation and the crucial role it has played, as well as the difficulties we will face without reinvigorated efforts in certain areas. The tremendous support of the international community for the ICTR has enabled it to not only prosecute those most responsible for the Rwandan genocide, but also, in turn, to assist national jurisdictions that are able to complement its work, thereby further strengthening accountability for the most serious crimes under international law.

Such empowerment of national institutions has substantiated the Tribunal's commitment to implementing the rule of law and may, ultimately, allow for impunity to be successfully challenged in a lasting way at all levels. However, we are in desperate need of increased cooperation with respect to relocation and trust that Member States will do what is necessary to help us accomplish that important task before closure.

It has been and continues to be an honour and a privilege to take part in this important task, and it has

been a great honour for me to address the members of the Council today.

The President: I thank Judge Joensen for his briefing.

I now give the floor to Mr. Brammertz.

Mr. Brammertz: Thank you, Mr. President, for this opportunity to address the Council on our progress towards the completion of our mandate. In the reporting period, as we marked 20 years since the creation of the International Tribunal for the Former Yugoslavia (ICTY), we witnessed significant critique of the Tribunal's work. Never before has so much been said and written about our cases, our legacy and our contribution to reconciliation in the region.

Certainly for the Office of the Prosecutor, it has been a difficult and challenging period. As a party to the proceedings, we must accept the judgements issued. However, we are using and will continue to use all remaining legal mechanisms to press for the outcomes that we think are just and which properly reflect the culpability of the accused persons brought before the Tribunal.

But, despite the rising crescendo of debate about the Tribunal, we will remain focused on successfully completing our last cases. The *Karadžić* trial is now well into the defence evidence presentation phase of the case. If the current swift pace continues, it will be completed before the end of this year. To promote efficiency, the *Karadžić* prosecution team has devised cross-examinations that minimize court time while ensuring that the evidence is properly tested.

In both the *Mladić* and *Hadžić* cases, the Prosecution is continuing with its presentation of evidence. In those cases too, efficiency techniques developed over previous years are minimizing the amount of court time used. At the same time, the Prosecution is constantly reassessing its strategy to further expedite the process. For example, in *Mladić*, the Prosecution has reduced the number of witnesses planned from 200 to 170, after verifying that it would not have a negative impact on the outcome of the case. If the current pace continues, the Prosecution will complete its cases in both *Mladić* and *Hadžić* well before the end of this year.

The Prosecution's work on the last trials and appeals has been helped by good cooperation from Croatia, Serbia and Bosnia and Herzegovina. Each of those countries has responded appropriately to our requests for assistance concerning documents and access to witnesses. We will continue to require their prompt and effective responses to our requests in the next reporting period.

In my recent reports and briefings to the Security Council, problems relating to national war crimes strategies in the former Yugoslavia — in particular, in Bosnia and Herzegovina — have become an increasingly disturbing refrain. Those problems remain, and urgent action is needed on many fronts if the situation is to be corrected. In that regard, I will travel to Sarajevo at the end of June for in-depth discussions on the status of the nine pending Category II cases transferred from my Office to Bosnia and Herzegovina some years ago. At the same time, we will hold a practical information session in Sarajevo for entity-level prosecutors about accessing materials from our databases. We want a greater commitment to using the resources available in our databases in The Hague.

We have a number of other ongoing initiatives to build capacity, including a detailed proposal for a coordinated and comprehensive training programme; the development of resources to transfer expertise from the ICTY for the purposes of sexual violence prosecutions, which still represents a very important challenge for our colleagues in the region; and the joint ICTY/European Union Liaison Prosecutor and Young Professionals Programme, which is now in its fourth year.

It is clear that the international community is playing a very important role in terms of capacity-building in Bosnia and Herzegovina. We are particularly grateful to partners such as the European Union, UN-Women, the Organization for Security and Cooperation in Europe and the United Nations Development Programme, which are working with us on many of the initiatives I have mentioned today. But it is also clear that our efforts will bear little fruit until political leaders on all sides genuinely commit to making national war crimes strategies successful, and more needs to be done.

In the reporting period, we saw signs of progress with the conclusion of two regional cooperation protocols for war-crimes prosecutions: one between Serbia and Bosnia and Herzegovina, and the other between Croatia and Bosnia and Herzegovina. That is a step in the right direction, but the States involved must now turn their words into concrete actions. More generally, we strongly encourage the responsible

authorities to make adequate resources available in order for them to successfully implement their national war crimes strategies. We also ask the States Members of the United Nations to remain committed to ensuring positive results.

I would like to highlight two other issues concerning regional commitment to the rule of law. The first is Serbia's work on fugitive networks. Serbia's efforts to establish accountability for those who have assisted ICTY fugitives to evade justice is a work in progress, and we ask that it be finalized promptly and effectively. The second issue is the lack of progress in locating missing persons, including through exhuming mass graves. During my recent visits, survivor communities expressed significant frustration in that regard, and authorities in the region must urgently refocus on locating missing persons, regardless of their ethnicity.

As we enter the ICTY's twenty-first year of operations, the thousands who survived crimes committed during the conflicts in the former Yugoslavia should be foremost in our minds. For them, the passage of 20 years has little meaning. The crimes that they lived through and the crimes that took away their loved ones are ever-present, and we must redouble our efforts to facilitate redress for them.

We are now just a few short weeks from the start date of The Hague branch of the Residual Mechanism. The parallel establishment of the Mechanism while the ICTY's work continues has resulted in a more complex operational framework. Nevertheless, our core concern is to ensure an effective transition and the best possible outcome in each one of our cases, regardless of whether it will be ultimately completed by the ICTY or the Mechanism.

Safeguarding the quality of our work also requires attention to the issue of staff retention, as was mentioned by the two Presidents. The loss of key staff members of the Tribunal at critical junctures in our work poses a significant challenge. In our Office, we are seeking creative ways of encouraging our staff members to stay at the ICTY. We want our personnel to see their work through. At the same time, we want to help them make a successful transition to the next step in their careers. Retention incentives are the key to meeting that objective. We also hope that the international community will see that ICTY staff members are a tremendous resource for future international justice initiatives and a highly transferable asset for the United Nations system more generally.

The President: I thank Mr. Brammertz for his statement.

I now give the floor to Mr. Jallow.

Mr. Jallow: Mr. President, I am greatly honoured to brief you once more on the progress of the completion strategy of the International Criminal Tribunal for Rwanda (ICTR) and to present to you the second report on the work of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals (S/2013/309, annex II).

For the past six months, our focus at the ICTR has been on the prosecution and completion of appeals; the referral of cases to national jurisdictions; the preparation of Office of the Prosecutor records for archiving and handover to the International Residual Mechanism; the completion of legacy, residual and closure issues; and the provision of support to the Office of the Prosecutor of the Arusha branch of the Mechanism. That focus will, with the exception of referrals of cases to national jurisdictions, continue for the months ahead. The past six months have also seen the Offices of the Prosecutor of the ICTR and the International Tribunal for the Former Yugoslavia (ICTY) spending significant time attending to the arrangements for the commencement of The Hague branch of the Mechanism, which is due to be launched on 1 July 2013.

The appellate workload of the Office of the Prosecutor of the ICTR continues to be heavy, following the conclusion of the trial phase of ICTR cases in December 2012. Since the beginning of this year, the Office of the Prosecutor has argued and finalized the hearing of 10 prosecution and defence appeals in connection with the *Ndahimana* and *Ndindiliyimana et al.* cases, which were heard in the May 2013 session of the Appeals Chamber conducted in Arusha, Tanzania. Those cases are now pending final judgement by the Appeals Chamber.

Briefing and oral argument are ongoing in 13 other appeals in four remaining cases before the ICTR Appeals Chamber. With the exception of the *Butare* case, which comprises seven defence and prosecution appeals, judgements in all of those pending cases are scheduled to be delivered before the end of December 2014. Therefore, absent any changes in the judicial calendar, all but one of the ICTR's remaining appeals

will be completed within the time frame of the ICTR completion strategy as set out by the Council.

Last month, the Appeals Chamber also affirmed the referral of Bernard Munyagishari, a detainee, to Rwanda for trial. That decision in effect concludes the ICTR's work on the programme for the referral of cases to national jurisdictions. My Office has now secured the referral of a total of eight cases to Rwanda and two cases to France for trial. As a result of those referrals and the completion of all trials in the first instance, the Office of the Prosecutor of the ICTR has no further trial or fugitive-related workload. The tracking and arrest of the three top-level fugitives, namely, Kabuga, Mpiranya and Bizimana, and the monitoring of referred cases are now being managed by the Mechanism.

The preparation of the reports of Office of the Prosecutor for archiving by the Mechanism has progressed well during the past few months. The preservation of files, which involves the cleaning, rehousing in acid-free boxes and scanning of Office of the Prosecutor documents, has been completed in 56 cases, representing 414 linear metres of records. Similar work is in progress for 22 cases involving 250 linear metres of documents and is due to commence for the other Office of the Prosecutor documents. The entire Office of the Prosecutor audio collection of 2,681 cassettes has now been completely digitized, and the digitization of the Office of the Prosecutor videotapes is soon to commence. ICTR records that are ready for archiving continue to be prepared for a handover to the mechanism as its archives unit builds up its capacity to receive the records. The remaining records will be handed over to the Mechanism when they are no longer required as working records by the Office of the Prosecutor of the ICTR.

In addition to the archiving of records, work continues on a number of other important legacy projects on which the Office of the Prosecutor of the ICTR has been working and which we plan to conclude before the expiration of the Tribunal's mandate. We note that with the launch of the joint international ad hoc Prosecutors' "Compendium of Lessons Learned and Suggested Practices" on the investigations and prosecution of international crimes in November 2012 at the Annual Conference and General Meeting of the International Association of Prosecutors, there has been renewed interest in the legacy of the Tribunals by academics, human rights practitioners, lawyers and national prosecuting as well as judicial authorities. The Office of the Prosecutor has also concluded the preparation of a best practices manual on the tracking and arrest of fugitives. The document will be available to national and international Prosecutors in due course. Work on the best practices manual on the investigation and prosecution of sexual violence is scheduled for completion this year. Work also has been ongoing on other subjects, such as the documentation of the genocide on the basis of adjudicated facts and the lessons to be drawn from the referral of cases with particular regard for their relevance to the principle of complementarity in international criminal justice.

We expect, over the next year until the closure of the Tribunal, to be actively engaged in a number of those initiatives aimed at promoting best practices and lessons to be learned in the struggle against impunity, especially at the national level. Those legacy products are aimed at recording the challenges and responses to the investigation and prosecution of these difficult cases and in assisting national and international prosecuting authorities in managing the range of challenges that we may face, as they are the front line in ensuring accountability for international crimes.

I am pleased to note that the interest in the work of the ICTR and its potential impact at the national level is increasing. That is indeed a good sign for the legacy of international justice, and we hope that Member States will deepen the impact through national programmes and appropriate legislative measures.

Permit me now to turn to the operations of the Residual Mechanism. I am pleased to report that all the core staff as well as the ad hoc staff necessary to conduct one upcoming appeal are already in place at the ICTR branch of the Mechanism in Arusha. That branch is now fully operational. Recruitment of staff and other logistical and administrative arrangements are in progress for the establishment of The Hague branch of the Mechanism effective from the beginning of July. We therefore expect some of the core staff of the Office of the Prosecutor of The Hague branch to be in place in time for the commencement of the branch. The support and cooperation of the Registry and the Office of the Prosecutor of the ICTY has been helpful in that respect.

The Arusha branch of the Mechanism continues to track the three top fugitives, namely Kabuga, Mpiranya and Bizimana. In that regard, the Mechanism is in the process of launching a number of new initiatives

aimed at increasing public interest and participation in tracking to supplement the efforts of the Office of the Prosecutor and of the national and regional law-enforcement authorities. We shall continue our contacts with Kenya, Zimbabwe and other States in the Great Lakes region concerning tracking of the three top-level fugitives, and we urge the Council to request all States to cooperate with the Residual Mechanism in that respect. We shall also continue to provide support to the Rwandan tracking group in respect of the cases of the fugitives that have been referred to that jurisdiction.

The Arusha branch has attended to 26 requests for assistance from seven Member States in the past six months in support of ongoing national investigations or prosecutions. Those figures are in keeping with the increasing trend of ongoing investigations within national jurisdictions against persons suspected to have participated in the Rwandan genocide. Those national efforts are quite welcome because they will contribute significantly to closing any gaps in the struggle against impunity for atrocities committed in Rwanda in 1994.

The monitoring by my Office of cases transferred to national jurisdictions continues. The two cases of Munyeshyaka and Bucyibaruta referred to France are progressing in that jurisdiction. The *Jean Uwinkindi* case referred to Rwanda is before the Kigali High Court for trial. Preliminary proceedings are in progress and subject to determination of applications made by the defence; subsequent trial proceedings are anticipated to be completed expeditiously. With the recent confirmation of the referral of Bernard Munyagishari to Rwanda for trial, I have now appointed a monitor to observe the proceedings in this case.

While the transfer of cases to national jurisdictions has facilitated the early conclusion of the work of the ICTR, its work will really be done only when all the fugitives have been arrested and brought to justice, whether at the Mechanism or in national courts. In respect of both, three are under the mandate of the Mechanism and six continue to be under the mandate of Rwanda. The Mechanism is committed to supporting and supplementing Rwandan efforts at tracking the six fugitives whose cases have been transferred to their jurisdiction. The cooperation of all Member States is critical for the struggle and for ensuring accountability. In that regard, I wish to acknowledge the support received from the United States Government through its War Crimes Rewards Program over the years and its assurances conveyed yesterday by Mr. Stephen Rapp, Ambassador-at-Large for War Crimes Issues, that the Program will continue to support the tracking of the remaining fugitives.

I would urge the Security Council to request all Member States once again to support the Residual Mechanism and Rwanda in the tracking and arrest of those fugitives and in ensuring their accountability in the appropriate jurisdiction.

The President: I thank Mr. Jallow for his briefing.

I remind Council members of the Council's agreement in note 507 of July 2010 (S/2010/507) that they should keep their interventions to five minutes or less. As a number of Council and non-Council members are participating in today's debate, I shall monitor implementation of that agreement closely.

I shall now give the floor to members of the Security Council.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): Guatemala has the honour to chair the Informal Working Group on International Tribunals. Perhaps that explains why we have the privilege of being the first to intervene in this debate, a debate that we would have liked to have been more open to other States Members of the United Nations.

I would like to begin my statement by thanking the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their respective reports (S/2013/308 and S/2013/310) as well as for the report on the International Residual Mechanism for Criminal Tribunals (S/2013/309).

My delegation would like to recognize the huge commitment demonstrated by the staff of both Tribunals to the goals laid out in the completion strategies. In that spirit, we welcome the twentieth anniversary of the adoption of resolution 827 (1993), through which the Security Council unanimously established the International Criminal Tribunal for the Former Yugoslavia. That historic resolution gave clear expression to the commitment of the Council to the rule of law and the fight against impunity.

Twenty years after the establishment of this Tribunal, we recognize its considerable success and progress in developing its international jurisprudence and in providing justice to victims by apprehending all fugitives, by trying individuals who bear the greatest

responsibility for serious violations of human rights, irrespective of their rank. The Tribunal has contributed to strengthening national systems, working closely with local authorities.

Regarding the ICTR, we take note of the forecasts asserting that almost all trials will conclude within the established deadline. However, we are concerned that nine persons continue to be fugitives from justice. We would recall the mandatory character of Security Council decisions and the requirement that States cooperate. The ICTR will be able to complete its work successfully only if it receives the effective cooperation of all States.

Likewise, as the closure of the Tribunal approaches, we are concerned about the human rights situation of those acquitted or who have served their sentence but have not been relocated. We support the recent strategic plan prepared by the ICTR for the relocation of those individuals. We are studying recommendations to find the most efficient way to implement them. In that respect, we would urge States to cooperate with the Tribunal and provide it with all necessary assistance to support its strategic plan for relocating those individuals. As is well known, the Tribunals are still having considerable difficulties in concluding their mandates, and we recognize the need to show flexibility in case assignments and the setting of dates for appeals and trials.

More generally, we welcome the fact that both Tribunals are continuing to take all possible measures to conduct their proceedings swiftly, fully respecting due-process guarantees. We remain concerned about the reports from both Tribunals concerning their difficulties in retaining staff, which is a key obstacle to the timely achievement of the goals and strategies. This is why we support the proposals of the President of the ICTY aimed at achieving the objectives of the completion strategy.

The work of both Tribunals is at a crucial stage, at which they are attempting to effectively conclude their cases while carrying out their outstanding tasks in connection with the Residual Mechanism. The Mechanism will guarantee that there are no gaps in the fight against impunity, given the large number of ongoing functions that must remain after the closure of the Tribunal.

We welcome the fact that both Tribunals have been working together to ensure a gradual and effective transition towards the Residual Mechanism. We note the progress made in connection with the Mechanism and welcome the process under way whereby by 1 July the new branch of the ICTY mechanism will begin its work.

In conclusion, we would like to express our national position to the effect that the Informal Working Group on International Tribunals is in an optimum position, given its technical composition and its flexible mandate, to address additional issues related to international criminal justice, such as matters related to the International Criminal Court on the agenda of the Security Council.

Mr. Mehdiyev (Azerbaijan): At the outset, I wish to thank the United Kingdom for convening this meeting. We are also grateful to the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their extensive briefings. I take this opportunity also to commend the work of the Informal Working Group on International Tribunals, under the leadership of Ambassador Rosenthal of Guatemala, and of the United Nations Office of Legal Affairs in assisting the Tribunals and the Mechanism to reach their goals.

Today's briefings noted the developments registered in the past six months and the progress achieved in meeting the completion strategy targets. We welcome the efforts and commitment of both Tribunals, while fully respecting and safeguarding due process, in completing the outstanding proceedings within the established time frame and in ensuring a smooth transition of their duties to the International Residual Mechanism.

The ICTR has completed its work at the trial level with respect to all 93 accused persons and is focused substantially on the appeal phase, which, naturally, increased the workload of the Appeals and Legal Advisory Division of the Tribunal.

We note that the ICTR is currently facing great difficulties in relocating 10 individuals who were either acquitted or released after completion of their sentences and who still remain in safe houses in Arusha under the Tribunal's protection. This situation impedes the well-timed completion of the ICTR's mandate and creates an additional burden. We welcome the Tribunal's efforts in resolving the issue and emphasize that the cooperation

of States remains a crucial pillar of the work of the Tribunal.

The ICTY has also made progress in its path towards the transition and has already concluded proceedings against 136 out of 161 indicted individuals. The report notes that the ICTY anticipates concluding all trials this year, except with regard to three individuals whose arrests occurred later. However, given the sharply increasing workload of the Appeals Chamber, the existing challenges to retain highly experienced staff members can hinder the timely delivery of judgements.

We note that the Arusha branch of the International Residual Mechanism for Criminal Tribunals has been duly functional since its inauguration last July 2012, and that the opening of The Hague branch next month will certainly make the Mechanism fully operational. Resolution 1966 (2010) empowered the Mechanism with the residual functions of the Tribunals after their closure. The successful operation of the Mechanism will depend significantly on the cooperation of States, especially when it comes to the critically important issue of the arrest and surrender of the remaining three fugitives indicted by the ICTR and relates to the enforcement of sentences. It is therefore important that States remain committed to meeting the relevant obligations towards the Tribunals, continue to cooperate with them, as well as with the Mechanism, and contribute to safeguarding and further developing their legacy.

The activities and jurisprudence of the Tribunals have helped to develop international law, particularly the law of war crimes and crimes against humanity, and contributed to advancing the rule of law and restoring peace. Indeed, the establishment of the truth in situations of gross violations of human rights and international humanitarian law, the provision of adequate and effective reparations to the victims, and the need for institutional actions to prevent the repetition of criminal offences are all necessary adjuncts to a true resolution of conflicts and imperatives in regard to the effective and politically uncompromised system of international criminal justice.

Mr. Kim Sook (Republic of Korea): Let me begin by thanking the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals for their very comprehensive briefings.

Two decades ago, the Security Council opened a new chapter in the history of international criminal justice by establishing the Tribunals. The advances made in international criminal justice are arguably the most positive development in international relations in the past generation. We welcome the fact that this year marks the ICTY's twentieth anniversary. We commend both the ICTY and the ICTR for their valuable contributions to the fight against impunity and the development of key precedents in international criminal law. We hope that the Mechanism will maintain and build upon the achievements of the Tribunals.

Regarding the ICTY, we note that as of today 12 individuals are on trial and 13 are in appeal proceedings, with no outstanding fugitives.

We recognize the Tribunal's efforts in connection with the submission of a consolidated comprehensive plan on the completion strategy, in accordance with Security Council resolution 2081 (2012). The Tribunal still faces challenges related to belated arrests and the loss of experienced staff members, among others. Nevertheless, we urge the Tribunal to continue its efforts to promptly meet completion targets while conforming to the principles of justice.

We share the concern of the ICTY President at the fact that only Judge Antonetti will be available for redeployment in October 2013 to the Appeals Chamber, where nearly all trial activity will be centred. We welcome the fact that the Council can now provide a solution to such concerns in due course.

As for the ICTR, we are pleased to note that the transition from the ICTR to the Mechanism is now well under way. We take note of the Tribunal's projection that all remaining appeals but one will be completed in 2014. We look forward to the Tribunal's completing its final appeal by July 2015, as projected.

The relocation of acquitted persons and those who have already served their sentences is a very important humanitarian issue and a widely shared concern. We commend the ICTR President on having taken a very active role with the Registrar in that regard. We call on the Tribunal, together with States, to continue to exert all efforts necessary to address that problem.

We support the Council's earlier decision in resolution 2054 (2012) that Judge Joensen continue to perform his functions as President of the ICTR until 31 December 2014.

We welcome the progress made in ensuring a smooth transition to the Mechanism. In particular, on 9 April 2013 the trial judgement in the ICTR case of The Prosecutor v. Benard Munyagishari has led to litigation before a bench of the Appeals Chamber of the Mechanism. We hope that The Hague branch will be fully functional on 1 July 2013, as scheduled.

Regrettably, nine fugitives are still at large. Their arrest and prosecution remains a top priority for the Mechanism. We note that in April, the Mechanism duty judge replaced the ICTR warrants with those of the Mechanism for the arrest of the three high-ranking fugitives. We encourage the Mechanism to continue its efforts to track down fugitives and to secure the cooperation of States.

In conclusion, the Tribunals have decisively contributed to the development of international humanitarian law and to the establishment of the ICC. We are strongly committed to providing the support that the Tribunals and the Mechanism will need to succeed now and in future.

Mr. DeLaurentis (United States of America): I thank Judge Meron, Judge Joensen, Mr. Brammertz and Mr. Jallow for their reports.

The prevention of mass atrocities and genocide is both a core national security interest and a moral responsibility of the United States. The prosecution of perpetrators of heinous crimes is essential not only for the sake of justice and accountability but also to facilitate transitions from conflict to stability and to deter those who would commit atrocities. Thus, the United States has strongly supported the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) since they began to fulfil the dual goals of justice and prevention.

In the 20 years since the Security Council established the ICTY, the Tribunal has made a significant contribution to international justice. The body of work of both the ICTY and the ICTR, established a year later, reflects the bedrock principle of providing fair trials for the accused and the opportunity for every defendant to have his day in court. That has been a hallmark of international justice since the Nuremberg trials and remains critical to advancing the rule of law internationally. While no system of justice is perfect, the United States has always respected the rulings of the ICTY and the ICTR and celebrates the progress that both Tribunals have made towards completing their work. Only three ICTY trials are expected to continue past the end of this year, all of which are for the late-arrested accused.

We look forward to the 1 July opening of The Hague branch of the Residual Mechanism for International Criminal Tribunals, which will handle any ICTY appeals after this month. The Arusha branch of the Mechanism has been open for almost a year and has taken some consequential steps, including ordering the transfers of three high-level accused to the courts of Rwanda when they are apprehended. We appreciate the considerable work by both Tribunals to share resources with the Mechanism to reduce costs. We look forward to further measures to streamline operations while maintaining the highest standards of justice. At the same time, we recognize that budgets for the next few years must support new premises for the Mechanism's Arusha branch, archives for both Tribunals, accommodations for victims and witnesses, outreach activities focusing on reconciliation, and judicial proceedings that may arise.

As a measure of our support for the ICTR and the countries of the Great Lakes, as Judge Meron and Prosecutor Jallow graciously noted, the United States recently announced an expansion of our reward programme for fugitives. Under the War Crimes Rewards Program, the United States now offers rewards of up to $5 million for information leading to the arrest, transfer or conviction of the nine ICTR fugitives, as well as designated foreign nationals accused of crimes against humanity, genocide or war crimes by any international, mixed or hybrid criminal tribunal. The list of rewards subjects now includes Joseph Kony, two other leaders of the Lord's Resistance Army, and Sylvestre Mudacumura, sought by the International Criminal Court for crimes allegedly committed in the Democratic Republic of the Congo. We also note the importance of resolving the issue of the relocation of acquitted and released persons in Tanzania and to that end welcome the ICTR's new strategic plan.

What we have supported these past 20 years is a system of justice that aims to hold accountable those responsible for some of the most monstrous crimes known to humankind and to prevent them from recurring. The Tribunals continue to play an indispensable role in establishing global respect for the rule of law. The United States' commitment to working

with the international community towards peace and justice remains steadfast.

Mr. Masood Khan (Pakistan): I thank Judge Meron, Judge Joensen, Prosecutor Brammertz and Prosecutor Jallow for their reports.

Pakistan fully supports the important work of the two Tribunals, as they contribute to procedural and evidentiary international criminal law. Media spotlight and scrutiny on their work has been sharp, but the Tribunals have demonstrated composure, solemnity and impartiality in conducting trial and appeal proceedings and in passing judgements.

During the last six months, the International Criminal Tribunal for Rwanda (ICTR) has completed its substantive work at the trial level with respect to all 93 accused, and it has concluded trial and appeals judgment. The transition from the ICTR to the International Residual Mechanism for Criminal Tribunals appears to be on track. We are glad to note that the Arusha branch of the Mechanism is operational and that it provides active support and protection to witnesses. The Mechanism's monitoring of cases referred to the national jurisdictions is important. Its work on the enforcement of sentences is vital for a smooth transition from the Tribunal to the Mechanism. We are confident that the Mechanism will continue to focus on State cooperation in the arrest of the remaining nine fugitives.

The International Tribunal for the Former Yugoslavia (ICTY), too, has concluded proceedings against 136 out of the 161 indicted individuals. We are hopeful that the Tribunal will conclude all trials during 2013, except for those involving the three most recently arrested accused. We appreciate the measures taken by the ICTY to implement the completion strategy and to pursue its procedural reforms. Concrete steps have been taken to commence the work of The Hague branch of the Mechanism next month.

In the final phase of their work, the Tribunals face challenges in the preparation of archives, the assignment of work to judges and staff management. Adequate resources should be provided to the Tribunals to do their job. The lack of experienced staff would cause additional delays. Therefore, it is logical to consider retention incentives on a case-by-case basis.

While there are no outstanding fugitives under the jurisdiction of the ICTY after the arrest of Ratko Mladić and Goran Hadžić, there are individuals indicted by the ICTR who still remain at large. We hope that with the cooperation and efforts of the relevant Member States, the remaining fugitives will be held accountable.

We support the efforts of the ICTR President and Registrar to find hosts for the relocation of individuals who have either been acquitted or have served their sentences. We call upon States that are in a position to do so to respond positively to the Tribunals' requests. Relocation of acquitted and released persons to third States would give them an opportunity to restart their lives and strengthen the rule of law.

This year marks the twentieth anniversary of the ICTY's establishment. It is essential to preserve the legacy of both Tribunals given their contributions to international criminal law. The work of preparing the archives of the ICTR must be completed according to its approved records retention schedule. The lasting legacy of those tribunals should be to build national capacities for accountability to end impunity.

We hope the Tribunals will also pave the way for the process of reconciliation and lasting peace in the Balkans and the Great Lakes region. The Tribunals' contribution to jurisprudence and precedents in international criminal law is important. So is the reconstruction of a sense of justice, which would help affected societies move beyond the events of the 1990s to closure and healing.

Ms. Lucas (Luxembourg) (*spoke in French*): At the outset, I would like to reiterate the full support of Luxembourg to the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Their work shows that international criminal justice prevails and that, sooner or later, the perpetrators of the most serious crimes will be held accountable. I thank Presidents Meron and Joensen, as well as Prosecutors Brammertz and Jallow, for their comprehensive reports (S/2013/308, S/2013/309, S/2013/310) and briefings. I also thank Ambassador Rosenthal of Guatemala and his team for the effective manner in which they have presided over the Informal Working Group on International Tribunals.

I associate myself with the statement to be delivered by the observer of the European Union.

This biannual debate on the activities of both Tribunals is particularly significant, as we have

just celebrated the twentieth anniversary of the establishment of the ICTY. By unanimously adopting resolution 827 (1993), the Council clearly voiced its commitment to an international order based on the rule of law, including respect for international humanitarian and human rights law. The ICTY has paved the way for what is now an internationally recognized principle for fostering conflict resolution and reconciliation in war-torn regions. Those suspected of the most serious crimes, which affect the entire international community, must be brought to justice.

Today, the ICTY is nearing its ultimate goal of completing its mandate by the deadline outlined in the completion strategy for its work. In that regard, we welcome the entry into force on 1 July of The Hague branch of the International Residual Mechanism for Criminal Tribunals. While the Tribunal will face a heavy workload in the *Šešelj*, *Karadžić*, *Mladić* and *Hadžić* cases, we welcome the efforts under way to hold the election of the sixteenth Appeals Chamber judge as soon as possible.

The ICTY has played a key role in strengthening the rule of law and promoting long-term stability and reconciliation in the Western Balkans, but its contribution goes beyond that. The ICTY's jurisprudence has contributed to the development of international criminal law in areas such as individual criminal responsibility and crimes of sexual violence. The Tribunal has given a voice to the victims, especially women and children.

Like the ICTY, the International Criminal Tribunal for Rwanda (ICTR) has made a significant contribution to our common goal of putting an end to impunity for the crime of genocide. We welcome the ongoing transition from the ICTR to the Residual Mechanism and the fact that the transfer of judicial functions will soon be concluded. We commend the referral of cases to the Rwandan jurisdiction, which is an important element of the completion strategy for the Tribunal's work.

However, as has already been noted this morning, nine fugitives continue to evade justice. The Office of the Prosecutor of the Arusha branch of the Residual Mechanism is rightly focusing its efforts on the search for the three high-level fugitives, Mr. Kabuga, Mr. Mpiranya and Mr. Bizimana. Arresting the fugitives is an urgent priority in order for justice to be done. We therefore urge all Member States to intensify their cooperation with the Tribunal and provide all necessary assistance so that all fugitives can be arrested and brought to justice.

We also call for a solution to be finally found for the resettlement of the five persons acquitted by the Tribunal who are still living in safe houses in Arusha under the Tribunal's protection.

While the Tribunals are in the process of drawing down their activities, the responsibility of States in the region in the fight against impunity is growing, in accordance with the principle of complementarity. In the Western Balkans, as in the Great Lakes region, the fight against impunity is essential to efforts to promote national reconciliation, strengthen regional cooperation and enable citizens to look to the future with confidence.

At the international level, the mass atrocities committed in the past few decades have shown that it is imperative to create a permanent court to put an end to impunity for the most serious crimes that affect the international community. The two ad hoc Tribunals have been a source of inspiration in that respect, and their work set the stage for the establishment of the International Criminal Court, a permanent court with universal jurisdiction.

In conclusion, I would like to reaffirm the commitment of Luxembourg to supporting all efforts aimed at strengthening the legacy of the ICTY and the ICTR at the national, regional and international levels, including through enhanced cooperation between the Security Council and the International Criminal Court.

Mr. Briens (France) (*spoke in French*): I would like to thank President Meron, President Joensen and Prosecutors Jallow and Brammertz for their briefings. France associates itself with the statement to be delivered later by the observer of the European Union.

This year we are celebrating the twentieth anniversary of resolution 827 (1993), which created the International Criminal Tribunal for the Former Yugoslavia (ICTY). The Security Council commemorated the event on 28 May. In 20 years, the region has recovered its human face. The political dialogue has continued to make progress under the auspices of the European Union. The Tribunal, guarantor of the right to the truth, the fight against impunity and the duty to remember, has played its full part in that evolution. It has not been ideal, of course; the political rhetoric and denial of

some crimes, and the lack of regional cooperation in bringing intermediate-level criminals to trial are still cause for concern. But the course has held steady.

The Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) have anchored the United Nations in an era that Secretary-General Ban Ki-moon has called the age of accountability. As they prepare to bring their work to a close, another body, this one permanent and with a universal jurisdiction, endowed by a statute that reflects the great juridical traditions, has already taken up the baton. The shadow of the International Criminal Court (ICC) continues to lengthen, with the Rome Statute hanging like a sword of Damocles over those who torture, recruit children or commit sexual violence. The Secretary-General's determined policy in promoting human rights, avoiding contact with those wanted by the ICC and instructing mediators not to consider amnesty or immunity for perpetrators of serious crimes has done a great deal to strengthen the impact of international justice, and we salute his efforts.

Regarding the International Criminal Tribunal for Rwanda, I commend the efforts that it has made to stick to its work deadlines as far as possible. I should also confirm our concern to receive full information from the Tribunal about the two cases that have been referred to French jurisdiction, those concerning Mr. Bucyibaruta and Mr. Munyeshyaka. The French authorities pay full attention to issues raised by the Tribunal with regard to those proceedings.

While the Tribunal works to conclude its activities, we should remain vigilant; three high-ranking fugitives, whose arrest is a priority, are still at large — Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. They will be tried by the Residual Mechanism when they are apprehended, and we must ensure that the Mechanism has sufficient resources to allow it to see that task through. I should point out that the Council's resolutions mandate universal cooperation with the ICTR, and it is important that the Council remind everyone of that obligation. Regarding assistance to the Tribunal, moreover, the relocation of those who have been acquitted or who have completed their sentences after having been found guilty is a matter that we are seriously focused on. France was among the first to admit several individuals to its territory at the Tribunal's request. We hope that more States will grant entry to such people.

The Tribunal has positioned the issue of justice at the heart of our concerns in the region. The ICC is continuing that work in the Democratic Republic of the Congo. Today we are pleased to see the work of international justice completed at the political level by the implementation of the Peace, Security and Cooperation Framework Agreement for the Democratic Republic of the Congo and the Great Lakes Region. Its aim is to strengthen the integration of the States in the region and to put an end to decades of instability and mistrust by tackling the root causes of tension.

For its part, the International Criminal Tribunal for the Former Yugoslavia is now managing some very complex cases, which explains the slippage in its timetable. We hope that it will conclude its work as soon as possible, though nothing should undermine its capacity to see that justice is served. I should recall that the decisions of the international criminal justice system apply to all, something that is as true for the ad hoc Tribunals as for the International Criminal Court. We are also obliged to respect the victims. Every decision of the Tribunal has confirmed that atrocities were committed in the region of the former Yugoslavia by all parties. The ICTY has designated the Srebrenica massacre as genocide — soldiers were disarmed and executed, in violation of the law, ethnic cleansing campaigns took place and members of ethnic minorities were persecuted.

While the international Tribunals are bringing their work to a close, the responsibility of the States in the region to commit to combating impunity must now take centre stage. As I said previously, we are not entirely convinced that the countries of the region have mobilized to continue those efforts at the local level. And regional cooperation remains inadequate. For France, as a member of the European Union, full cooperation with the ICTY, as well as regional cooperation, remains a major consideration and an essential obligation within the framework of the stabilization and association process for candidate and potential candidate countries for membership.

The historic agreement of 19 April between Serbia and Kosovo, reached under the auspices of the European Union, creates a new context that brings hope for stability in the region, the future of the peoples involved and the European prospects for those two States. We hope that the spirit that made that agreement possible, one that promotes justice and rejects impunity,

will enable them to definitively turn the page on the conflicts in the former Yugoslavia.

In conclusion, I would like to thank the Ambassador of Guatemala, Chair of the Informal Working Group on the International Tribunals, his entire team, the representatives of the Tribunals and the staff of the Office of Legal Affairs for their efforts in accomplishing the transition provided for in resolution 1966 (2010).

Mr. Quinlan (Australia): Thank you, Mr. President, for this opportunity to reflect on the impact of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), 20 years after the Council's establishment of the ICTY. We are disappointed that the Council could not agree to hold an open debate, but we would like to thank the Tribunal Presidents, Judges Meron and Joensen, and Prosecutors Brammertz and Jallow for their briefings today. We would also like to thank Guatemala for its leadership of the Informal Working Group on the International Tribunals.

I would like to make a number of broader comments. The establishment of the ICTY was a watershed moment in recognizing the relationship between justice and peace. The establishment of the ICTR a year later cemented that link. Of course, the investigation and prosecution of serious international crimes cannot by itself bring about peace or reconciliation. But both historical experience and expert analysis have established that, while timing is important, without justice it is difficult, and ultimately maybe impossible, to establish inclusive and lasting reconciliation and peace.

We all know that both Tribunals have faced challenges. They began their work in the context of an ongoing conflict, in the case of the ICTY, and a fragile peace, in the case of the ICTR. At the outset, they had only skeletal jurisprudence to guide their efforts. With no enforcement powers, they were dependent on States to arrest and surrender indictees, and they had to grapple with vast amounts of evidence. Their achievements in the face of those challenges are truly impressive. All 161 persons indicted by the ICTY and all but nine of the 90 indicted by the ICTR have been accounted for. Together the Tribunals have dealt with 1,627 charges of crimes against humanity, war crimes and genocide. In doing so, they have produced rich international criminal law jurisprudence. Legal aid systems have been established, protective measures for witnesses developed and innovations made in forensic, ballistic and re-enactment evidence. Assistance has been provided to national judiciaries dealing with serious international crimes. And at all times the Tribunals have maintained their independence and provided fair trials in accordance with international standards.

We welcome the considerable progress that the Tribunals have made during the reporting period towards the completion of their mandates, but their work is not yet done. Some of the ICTY's most high-profile cases are still ongoing. The ICTR's trials may have been concluded, but appeals continue, including under the Residual Mechanism. The 10 people acquitted and released in the care of the ICTR in Tanzania must be relocated. States must assist the Residual Mechanism track and apprehend the fugitives from the ICTR. Australia encourages the Tribunals to continue their efforts to implement their completion strategies and calls on all States to continue to cooperate with and support both Tribunals, as well as the Residual Mechanism.

As the Tribunals near the conclusion of their work, we should pay tribute to the thousands of dedicated Tribunal staff and officials, the national Governments of the former Yugoslavia and Rwanda, the host States, international organizations, the members of civil society and, most especially, the victims and witnesses, who have courageously stood up and said that we will not tolerate impunity for serious international crimes.

Just as a democracy is not a democracy unless it protects the most vulnerable, international criminal justice is not justice unless it serves the victims. We still have a long way to go to end impunity. But our responsibility to do so must be a continuous touchstone in the Council's work and must guide our interaction with all international criminal justice institutions, including pre-eminently, of course, the International Criminal Court.

Mr. Bouchaara (Morocco) (*spoke in French*): I take the opportunity to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings. We are pleased to note the progress made by both Tribunals in implementing their respective strategies to finalize their work and ensure the transition to the International Residual Mechanism for Criminal Tribunals and to

promote the conditions necessary for the Mechanism to effectively implement its mandate.

We welcome the measures adopted by both Tribunals, which, while ensuring due process, have enabled the harmonization of working methods in order to accelerate the work pace. We welcome the fact that such measures have enabled the ICTR to conclude its trials of the 93 accused, issuing its final judgement in December 2012, as initially planned. We appreciate the fact that the Tribunal has met all announced forecasts for the past six months in terms of both completed trials and appeals. We welcome the Tribunal's plans to issue judgements in 2014 in five of the six cases before the Appeals Chamber, and we understand why the sixth case had to be postponed until 2015. In addition, we support the measures to ensure the capacity of the ICTR's Appeal Chamber, in particular the quick replacement of Judge Vaz. Maintaining its capacities will enable the Tribunal to dispose of nearly all of its ongoing appeals in 2014 according to schedule.

With respect to the ICTY, we note with satisfaction that, in the period under consideration, 12 judgements and 13 appeals have been completed and that the Tribunal intends to complete all of its trials in 2013. We support measures to strengthen the Appeals Chamber of the ICTY, as its judicial activity increasingly involves appeals, which will facilitate the discharge of its mandate. We note that the ICTY has indicated that certain judgements and arrests will be carried out later than expected. Therefore, we must continue our support with a view to assisting the Tribunal in finding suitable staff.

Dialogue continues among the two Tribunals, the Mechanism, the Office of Legal Affairs and the Council's Informal Working Group on International Tribunals, capably and effectively chaired by Guatemala. It will continue to be the appropriate framework to review ways and measures to overcome any practical or institutional difficulties in carrying out the completion strategy of both Tribunals. The constructive discussions on the forthcoming election of an additional judge to the ICTY Appeals Chamber perfectly illustrate the commitment of the members of the Security Council to continuing to support the two Tribunals.

In that context, the important cooperation of Member States with regional and subregional organizations and the two Tribunals, in accordance with their respective Statutes and the Residual Mechanism, must be highlighted. That cooperation should involve not only additional efforts to arrest the fugitives still sought by the ICTR, but also the accelerated action on communications and requests for legal assistance from both Tribunals. Referral of matters to national jurisdictions has greatly facilitated the programme of work of both Tribunals and the gradual transition to the Residual Mechanism. The ICTY's referral of all cases involving intermediate and lower-rank accused to national jurisdictions, pursuant to resolution 1503 (2003) of the Council, and the referral by the ICTR of 10 cases to national jurisdictions will further enhance complementarity in strengthening the national judicial institutions of affected countries and promoting reconciliation.

We welcome the announced launching next month of the branch of the International Residual Mechanism in The Hague, one year after the opening of the Arusha branch. In that context, we also note the preparations of the ICTY under way to transfer certain follow-up and judgement matters to the Residual Mechanism, as well as other functions of the Tribunal, including the monitoring of sentences, requests for assistance from national authorities and the protection of victims. We welcome the fact that the Arusha branch is now authorized to hear appeals filed against the Tribunal and adjudicate requests to review the Tribunal's judgements, matters involving contempt and false witness and the three major fugitives as soon as they are apprehended. We also welcome the close cooperation between the two Tribunals to ensure that the two branches of the Mechanism benefit from significant administrative support.

Activities to raise awareness among the younger generation, including workshops and exhibits on lessons learned from the judgements and crimes covered by the two Tribunals, should be encouraged. Also, activities to distribute information on both Tribunals to all national, regional and international actors must be continued. The significant number of judgements and arrests by both Tribunals form an important foundation for such awareness-raising activities.

The contribution of the International Criminal Tribunals to international criminal justice must be recognized and preserved. The protection of the heritage of the two Tribunals has judicial as well as moral value. In that spirit, it is important to continue to guarantee access to information relating to the two Tribunals,

their mandates and their contributions, in order to fight impunity, strengthen the international judicial system and enhance reconciliation. It is also essential to take specific measures to ensure ownership of the archives and other commemorative symbols and documents by the populations of those regions affected by the crimes that have been judged by the two Tribunals.

Mr. Churkin (Russian Federation) (*spoke in Russian*): We are grateful to the leadership of the Tribunals for their briefings on their work, their completion strategies and the transition to the International Residual Mechanism for Criminal Tribunals. We have noted the recent trial and acquittal in the *Stanišić and Simatović* case. We see in that decision and overall in the acquittal by appeal in the *Perišić* case a certain positive trend helping to remedy the anti-Serb leanings of the International Criminal Tribunal for the Former Yugoslavia (ICTY). We believe that a similar potential with regard to such verdicts lies in a number of similar cases on the Tribunal's docket.

However, the ICTY continues to suffer from serious judicial administration problems. The latest unjustified extension of trial deadlines is completely unreasonable. Despite the reasons cited, it is clear that well-organized judicial activities should preclude instances such as the Šešelj trial, which is now in its tenth year. We continue to believe that the ICTY stalemate could be broken with the help of an independent expert — in line with the model of the Special Court for Sierra Leone — as we proposed in December. We reiterate that only following such expert analysis will we consider any proposals to extend the work of the Tribunals beyond 2014, or extend the terms of the judges or any budget proposals going beyond that deadline. It might also be worth considering inviting not just the ICTY President but the ICTY's other judges, including its senior judges, to participate in the next debate at the end of this year.

Restoring trust in the Tribunal and its role in national reconciliation would be boosted by a positive decision by the Security Council with respect to Serbia's request to be inscribed on the list of countries where ICTY-convicted persons can serve their sentences. We believe that Serbia's request is justified, both legally and politically. The situation in that country since 1993 has changed greatly. The country has established modern legal institutions, has seen its civil society develop and has strengthened the rule of law. We support Serbia's request, given the relevant guarantees provided by it.

We are disappointed by the information from Rwanda Tribunal, which we had always considered to be a model for responsible implementation of the completion strategy and an example for the ICTY in that respect. When it comes to granting an extension in the *Butare* case beyond the timeline set forth in resolution 1966 (2010), taking 18 months to translate the file in the case into French is unacceptable. It is hard to imagine that the problem could not have been foreseen six months ago, prior to the December briefing to the Security Council (see S/PV.6880), when the ICTR promised to conclude all cases in a timely fashion. We believe that the ICTR has the necessary capacities and financial resources to remedy the situation by the deadline in conformity with the time frame stipulated in resolution 1966 (2010). I hope that we will not have to return to the issue once more at the end of the year.

Very soon we will see the opening of The Hague branch of the Residual Mechanism, the latest milestone in the history of the ICTY and ICTR. We will soon see whether the outcomes of the work of the Tribunals will be a heritage acceptable to the whole of the international community. In that regard, going to every length to ensure that the history of the Tribunals ends on a positive note, we will strictly adhere to the compromise scheme for the completion of the work of the Tribunals and the model of the Residual Mechanism as an organ with a limited jurisdiction and life cycle, as set forth in resolution 1966 (2010).

Mr. Li Zhenhua (China) (*spoke in Chinese*): We wish to thank the Presidents and the Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) for their respective briefings on the implementation of the completion strategies of the ICTY, the ICTR and the Residual Mechanism of the International Criminal Tribunals.

We have noted with pleasure that the two Tribunals have made further headway in their work and have been moving steadily forward with the completion strategy. The ICTY branch of the Residual Mechanism will start operations as of 1 July 2013, which we acknowledge as an important milestone.

As for the work of the two Tribunals and the Residual Mechanism, I wish to make three points. First, under resolution 1966 (2010), the two Tribunals are to complete all the work that remains and are to be closed by the end of 2014 at the latest. We have noted the delay

in part of the work of the two Tribunals, as mentioned, and we believe that the Council resolution should be strictly followed. We hope that the two Tribunals will continue to take effective measures to accelerate the pace of work, while ensuring the quality of their trials, so as to complete their work on schedule.

Secondly, the Arusha branch of the Residual Mechanism has been progressing well, and part of its judicial functions have been handed over to it smoothly. The Hague branch of the Mechanism will soon come into operation. China hopes that the ICTY will organize its work in various areas so as to ensure the smooth start and operation of the Hague branch.

Thirdly, we have noted that the two Tribunals still face some difficulties in their related judicial activities and administration. As mentioned earlier by the previous speakers, there are still nine fugitives within the jurisdiction of the ICTR. Therefore, there remain potential cases involving the arrest of fugitives and the placement of those convicted and sentenced. We call upon the countries concerned to continue their cooperation with the two Tribunals and to arrest the fugitives at large. At the same time, we also hope that the countries able to do so will provide the necessary assistance to the two Tribunals in areas such as the placement of those sentenced. We also take note of Serbia's proposal with regard to the serving of sentences, which we think is very important.

Mr. Nduhungirehe (Rwanda): We wish to thank Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and President of the International Residual Mechanism for Criminal Tribunals; Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda (ICTR); and Prosecutors Serge Brammertz and Hassan Bubacar Jallow for the reports on the completion strategy of their respective Tribunals (S/2013/308, annexes I and II; S/2013/309, annexes I and II; S/2013/310, annexes I and II).

Rwanda recognizes the important role played by the ICTR and the ICTY in the international system of justice. Both Tribunals have produced a substantial body of jurisprudence, including definitions of the crime of genocide, crimes against humanity, war crimes, and forms of responsibility such as superior responsibility.

In 1998, the ICTR, through the *Akayesu* case, established that a genocide had occurred in Rwanda in 1994 — a genocide against an ethnic group, the Tutsis. In the same vein, in 2004, the ICTY ruled in the *Krstić* case that in 1995 a genocide had been committed against the Bosnians in Srebrenica. Unfortunately, those rulings have not prevented genocide deniers in Rwanda, Bosnia and Herzegovina and beyond to openly deny the fact of the genocides, which, for us, is an insult to the memory of the victims and to the survivors.

Nonetheless, in the case of Rwanda, one of the tactics of the genocide deniers was to co-opt the very terminology of the United Nations, which had described the crime as the "Rwandan genocide". As a result, revisionists of all kinds, including scholars from Western countries, were able to state that, yes, a genocide had occurred in Rwanda, but it was one perpetrated against a national group, that it was a question of Rwandans killing each other.

As we prepare to commemorate the twentieth anniversary of the genocide next year, we call upon the United Nations to consider reviewing the qualification and call the crime established by the ICTR in the *Akayesu* case a genocide perpetrated against the Tutsis.

We acknowledge the efforts of the ICTY and the ICTR to expedite the proceedings and smoothly achieve the transition to the Residual Mechanism. However, allow me to express the serious concern of my Government with regard to two aspects of the work of the ICTR. First, with regard to the time and cost of the proceedings, the ICTR has, since its inception 17 years ago, completed cases involving only 75 suspects with an overall budget amounting to billions of United States dollars.

Secondly, with respect to the decisions of the ICTR, particularly those of the Appeals Chamber, in 1998, Jean Kambanda, the then-Prime Minister of the Government that was in place during the genocide, pleaded guilty to six counts before the ICTR, including conspiracy with other members of the Government to commit genocide. However, the ICTR, particularly the Appeals Chamber, has on several occasions in the past month acquitted a number of members of that Government, some of whom were heavily sentenced at first instance. Given both the pace of the proceedings and the acquittals of some of the masterminds of the genocides, it is the feeling of our people that the ICTR did not fully live up to the trust that Rwandans, particularly the genocide survivors, had vested in the Court.

As stated in the ICTR report (S/2013/310), four cases were transferred to national jurisdictions, two

in Rwanda and two in France. For the case of Jean Uwinkindi, and soon the case of Bernard Munyagishari, referred to Rwanda, we reiterate our commitment to full cooperation with the ICTR Residual Mechanism monitoring arrangement. However, as we had already stated before the Council in June 2011 and in December 2012 (see S/PV.6545 and S/PV.6880), we are concerned about the fate of the cases against Laurent Bucyibaruta and Wenceslas Munyeshyaka, transferred to France in November 2007. Almost six years after the referral, little has been done to try the two suspects. While taking note of the ongoing monitoring arrangement for the cases, we would, however, wish to request that the status of those cases, including the reasons for the delay, be communicated in the next report of the Residual Mechanism.

Rwanda welcomes the call made again yesterday by Prosecutor Hassan Bubacar Jallow to urge the States Members of the United Nations to live up to their obligations to cooperate with the Residual Mechanism and the tracking and arrests of the remaining nine fugitives, among whom the most wanted are Félicien Kabuga, Protais Mpriany a and Augustin Bizimana. Indeed, we are deeply concerned at the lack of progress in that regard, and we commend the Prosecution tracking team for its tireless efforts in ensuring that the remaining fugitives are brought to justice. In that regard, we acknowledge the role of the United States Government and its War Crimes Reward Program.

In the same vein, we call upon the concerned States Members of the United Nations to arrest other genocide suspects living on their soil, including leaders of the Forces démocratiques de libération du Rwanda (FDLR), a movement with members who have committed genocide in Rwanda or who perpetuate its ideology. In that regard, we commend the Government of Germany for its indictment yesterday for terrorism of the leaders of the FDLR operating in that country. We believe that that decision should be emulated by countries of the region and beyond that may be tempted to support or sympathize with that genocide force.

The Government of Rwanda once again reiterates its request that the archives and records of the ICTR be transferred to Rwanda upon completion of the mandate of the Residual Mechanism. Those archives should be transferred to Rwanda because they constitute an integral part of our history. They are vital to the preservation of the memory of the genocides and will play a critical role in educating future generations to guard against genocide deniers and revisionism. We recall that this request was also endorsed by the East African Community, a subregional organization comprising Burundi, Kenya, Rwanda, Uganda and Tanzania, the latter being the ICTR host country. We are grateful to President Joensen for recognizing the need to ensure that the ICTR's records are readily accessible to the Rwandan people for posterity.

To conclude, let me recall that the next April, the world will be commemorating the twentieth anniversary of the genocide perpetrated against the Tutsi in Rwanda. Rwanda is today a different country, which has achieved a great deal in the area of justice, reconciliation and development. With the closure of the Gacaca courts last year and the winding down of the ICTR and the Residual Mechanism in 2014-2015, we hope that the twentieth commemoration will be an opportunity to turn a dark page of our history. For that, we call upon the ICTR, the Residual Mechanism, the Security Council, the Secretariat and all States Members of the United Nations to accompany Rwanda in the process along the lines of the requests and suggestions we have expressed during this debate.

Mr. Menan (Togo) (*spoke in French*): At the outset, I would like to thank President Theodor Meron, President Vagn Joensen, Prosecutor Brammertz and Prosecutor Jallow for their briefings on the reports of the International Criminal Tribunal for the Former Yugoslavia (ICTY) (S/2013/308) and the International Criminal Tribunal for Rwanda (ICTR) (S/2013/310).

Next year, we will be celebrating the twentieth anniversary of the ICTR. This year we have commemorated that of the ICTY. The press statement made on behalf of Security Council members on 22 May, under the Togolese presidency, to mark those events reflected the commitment of the international community to combat impunity. It is therefore important to take stock, in a critical and constructive manner, of the activities of the two Tribunals in order to draw the best lessons from both their failures and their successes, with a view to urging the international community to work with greater determination to promote international criminal justice. To that end, Togo believes that the Council has been wise to expand today's debate to include more participants than usual.

The reports presented reflect the progress that has been made towards completion of the mandates, sometimes through the modification of procedures,

all the while respecting the principle of due process. The ICTR has concluded all trial court cases in a timely manner. We urge the ICTR to keep its pledge in terms of appeals to make two further arrests before the end of 2013 and to hold substantive hearings without significant delays in the six pending cases.

The ICTY, for its part, is still doing its best to stay on schedule, despite being short of staff and appeals judges and the workload resulting from new arrests. In that context, the redeployment of Judge William Sekule from the ICTR to the Appeals Chamber, at a time when one of the ICTR judges of that Chamber has resigned, will not be enough to respond to the persistent difficulties at the ICTY in appointing judges to the Appeals Chamber.

Togo takes note of the decision of the Council whereby one of the two newJudges will be chosen by appointment and the other by election to bring the number of judges to the level commensurate to the proportions of the task and challenges to be met.

Togo wishes to stress the negative impact of the constraints resulting from the reduction in and departure of qualified staff on the completion strategies of the two Tribunals as well as on the transition towards the Residual Mechanism. We think that the entities concerned within the United Nations should take appropriate steps to minimize the consequences of the problem. We are also pleased that the end of the ICTR and the ICTY will not spell impunity for persons still on the run, since certain cases, including those of ICTR fugitives, have been referred to national jurisdictions. Monitoring mechanisms still need to be established to guarantee due process before those national jurisdictions.

Regarding the problem of the resettlement of persons acquitted or who have served their sentences but who continue to be denied their liberty due to the lack of a host country, the Council should explore appropriate ways and means to assist the Tribunals in that respect. In that regard, Togo welcomes the coordination initiative with the International Criminal Court with a view to devising possible solutions.

It is clear that this unjust constraint imposed on persons supposedly at liberty is at odds with the agreements with the host countries, whereby those persons, following their trials or serving their sentences, should no longer reside in the host territory. But that constraint also affects the credibility of the commitment of the United Nations to ensuring international criminal justice in accordance with the principles of the rule of law or the primacy of law. The Council should call on the Secretary-General to submit to it a report on the role that has been, or could be, played by United Nations entities and make recommendations to guide the Council.

The interactive informal dialogue held on 14 March with Mr. Bongani Majola, the ICTR Registrar, and Mr. John Hocking, the ICTY Registrar, and with the Residual Mechanism allowed us not only to take stock of progress made towards completion of the mandate, but also to grasp the scope of the challenges to come for each of the branches of the Residual Mechanism. We welcome the transfer of activities and the assistance from the two Tribunals to the Arusha branch of the Residual Mechanism. That experience will help better organize The Hague branch, which will begin its work on 1 July.

Outreach is one of the fundamental pillars for the Tribunals in implementing the mandates through raising the awareness not only of the broader public but also of States and international institutions. Thus Togo encourages initiatives from the Tribunals, not just to bolster the capacities of States and international organizations, but also to sensitize individuals in order to prevent similar crimes. However, as we stated regarding the Special Court for Sierra Leone last October, Togo would like to draw attention to the fact that the impact of images can still surprise and often backfire. Therefore it calls on the two Tribunals to follow the appropriate educational approach to counter the negative effect of images that could rather inspire or encourage certain persons to replicate atrocities.

Ms. Millicay (Argentina) (*spoke in Spanish*): At the outset, I would like to state that my delegation supported this being an open debate because the subject merits this, in particular given the twentieth anniversary of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and also because my country is working constructively towards enhancing and ensuring the transparency and openness of the Council vis-a-vis the broader membership. I would like to thank Presidents Meron and Joensen and Prosecutors Jallow and Brammertz for their presence in the Council and welcome the presentation of the reports of both Tribunals, including that on the activities of the Residual Mechanism (S/2013/308, S/2013/309, S/2013/310).

Argentina welcomes the progress reported for the ICTY, in particular given that since the November 2012 report (S/2012/847) the Tribunal has finalized five trials, two of which were concluded after the formal presentation of the report of the Tribunal on 23 May, and only four trials are still pending. My country acknowledges the efforts of the Tribunal to comply with deadlines and time projections in a situation involving staff reduction, including for translation services. I would also like to recognize progress made in regard to appeals.

Regarding the International Criminal Tribunal for Rwanda (ICTR), we would also like to express our satisfaction at the progress made towards a mechanism for the expedited election of an additional appeals judge, in keeping with Judge Meron's request. Argentina supports the Council putting that Mechanism into practice immediately.

We also welcome the information regarding compliance by the ICTR with the deadlines and time projections for trials and appeals, and the fact that the transition to the Residual Mechanism continues to accord with such projections, including the handover of archives by the end of 2014. I would also like to underscore the importance of the *Ngirabatware* appeal, the first appeals case that will be resolved by the Mechanism. Finally, I would like to highlight the importance of arresting those individuals still at large. We recall that resolution 955 (1994) of the Security Council establishes the obligation of all States to fully cooperate with the Tribunal.

As regards the Residual Mechanism, Argentina recognizes the progress made towards its being fully functional and the fact that the Arusha branch has been operational since July 2012. We are also pleased by the opening on 1 July of the Hague branch, which will assume the same responsibilities with regard to the ICTY as those already undertaken by the Arusha branch with regard to the ICTR.

Argentina would like to commend the work of the Mechanism in monitoring cases referred by the Tribunal to Rwandan national courts. We also welcome the attention given to the normative continuity between the Tribunals and the Mechanism, which is necessary to ensure due process at this transitional stage.

Resolution 827 (1993) marked a milestone, because 50 years after Nuremberg, it shows that impunity for the most serious crimes is unacceptable. On this twentieth anniversary of the ICTY, it is pertinent that the international community recognize the progress made by the ICTR and the ICTR in fighting impunity and its important doctrinal contributions to international law, in particular international humanitarian law. It is also relevant to recognize the role and importance of international criminal justice. The legacy of both ad hoc Tribunals regarding the reaffirmation of the international community's awareness that no sustainable peace can emerge without justice is undeniable. That legacy was consolidated in a definitive manner with the establishment of a permanent international tribunal, the International Criminal Court, that today is central to the international criminal justice system of the international community.

It is not de jure or de facto amnesties that provide relief to victims of atrocities, but, rather, it is when justice is seen to be done through impartial and independent courts. Argentina reiterates its support for the work of the ICTR and the ICTY and pays tribute, on this twentieth anniversary of the ICTY, to both of them for their significant contribution to the fight against impunity.

The President: I shall now make a statement as representative of the United Kingdom.

I would like to express the United Kingdom's thanks to President Meron, President Joenson, as well as Prosecutor Brammertz and Prosecutor Jallow, for their reports today. We would like to congratulate the International Criminal Tribunal for the Former Yugoslavia (ICTY) on its 20 years of service. It has been instrumental in helping to tackle impunity and delivering justice to the many victims of the conflicts in the former Yugoslavia. On behalf of the United Kingdom, I would like to thank the ICTY for all of its work and for what it has accomplished since its establishment 20 years ago.

We are pleased that verdicts have been delivered in the *Stanišić*, *Simatović* and *Prlić* cases which are milestones for the ICTY. It is important that everyone respect those verdicts. We welcome the continued cooperation of Serbia, Croatia and Bosnia and Herzegovina. State cooperation is essential for the completion of the ICTY's mandate. We note, however, that there has been limited progress in investigating the support networks that helped Mladić and Hadžić evade capture. Investigating those networks remains a priority.

We welcome the signing of a protocol covering the exchange of evidence between Bosnia and Serbia. That is a positive step that will help improve cooperation between the two States. However, as the Prosecutor's report (S/2013/308) states, the capacity of domestic institutions to conduct effective war-crimes prosecutions remains a concern. We encourage all parties to consider this point and to explore ways to improve the capacity of domestic institutions.

It is disappointing to see that the judgement in the *Karadžić* case is now expected in July 2015. Repeated delays to this trial are disheartening. We urge the Tribunal to take all necessary steps to minimize any further delays, given the importance of the timely completion of trials.

Turning to the International Criminal Tribunal for Rwanda (ICTR), we are pleased to see that the Tribunal has completed all of its trial work and that the transition to the Residual Mechanism is progressing well. Capturing the remaining ICTR fugitives remains a priority. The Tribunal's work cannot be fully completed until all of those individuals are apprehended. We encourage all Member States to provide their full, unequivocal support and cooperation to ensure that the fugitives are captured.

At the same time, we encourage the ICTR to cooperate with States to facilitate the national prosecutions that relate to individuals accused of genocide. Those actions will help ensure that all accused of genocide face justice. We note that host States for the acquitted individuals in Arusha have still not been found. This is disappointing, and we encourage all parties to work together to find a solution to this problem as soon as possible.

We regret to see that staff retention continues to be an issue for both of the Tribunals. There is no easy solution to this problem, and so we encourage both Tribunals to prioritize their resources as rigorously as possible.

I now resume my function as President of the Council.

I remind those speaking under rules 37 or 39 that they should also keep their remarks to five minutes or less.

I now give the floor to His Excellency Mr. Nikola Selaković, Minister of Justice and Public Administration of Serbia.

Mr. Selaković (Serbia): Let me begin by expressing my satisfaction over this opportunity to participate in the proceedings of this body.

At the outset, I would like to thank the Presidents and the Prosecutors of the two Tribunals and of the International Residual Mechanism for presenting their reports (S/2013/308, S/2013/310, S/2013/309).

The Republic of Serbia has accorded continued and undivided importance to its cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY). As confirmed in the most recent report (S/2013/308) of the President and the Chief Prosecutor of the ICTY, that cooperation has yielded significant results. In July 2011, my country completed its cooperation with respect to all indictees whose transfer had been requested by the Tribunal.

We note that the Prosecutor and the President of the ICTY have positively assessed the results that the Republic of Serbia has achieved in its cooperation with the ICTY. They pointed out that there were no outstanding or unmet assistance requests, that all summonses had been served on time, that ICTY orders had been carried out in a timely fashion and that witnesses had attended the Tribunal without delay or difficulties.

The Republic of Serbia has also shown its full commitment to cooperation with respect to access to documentation, archives and witnesses. Further, it refused no access request by either the ICTY Prosecutor or defence teams. Waivers were granted to all witnesses for whom they had been requested, which made it possible for them to testify before the Tribunal.

At the same time, 398 persons have so far been tried in the courts of the Republic of Serbia for criminal offences committed against international humanitarian law. Consequently, the Republic of Serbia showed a firm commitment not only to complying with its international obligations, including punishing those responsible for committing crimes, irrespective of their ethnicity, but also to establishing the whole truth about crimes committed during the armed conflicts in the territory of the former Socialist Federal Republic of Yugoslavia. The Republic of Serbia is convinced that it is thereby contributing to the establishment of justice and the process of regional reconciliation.

This meeting is being held 20 years after the establishment of the ICTY under resolution 827 (1993).

The painful memories of the tragic events of the 1990s still gnaw at the sensitivities of many in the countries of our region. Yet time and again those countries have demonstrated their resolve to proceed along the road of good-neighbourliness, cooperation and reconciliation. Therefore, I must point out that the Republic of Serbia places great importance on the initiative that would enable persons sentenced by the ICTY to serve their sentences in the countries that emerged on the territory of the former Yugoslavia whose nationality they hold. The basic motivation for that initiative is my country's determination to assume responsibility for overseeing prison sentences handed down to its nationals by The Hague Tribunal.

On a number of occasions, the Republic of Serbia has shown its readiness to allow its own nationals, as well as other willing persons tried by the ICTY, to serve their sentences in Serbia. It is also prepared to provide full security guarantees regarding the locations in which those sentences would be served.

I would like to emphasize that on 20 January 2011, the Republic of Serbia signed an agreement with the International Criminal Court on the enforcement of its sentences. Under that agreement, persons sentenced by the Court for the commission of war crimes, crimes against humanity or genocide may serve their prison sentences in the Republic of Serbia. I would also like to stress that Serbia is the first country in Eastern Europe to have signed such an agreement with the International Criminal Court; the only other countries to have done so before Serbia are the United Kingdom, Austria, Belgium, Denmark and Finland.

Bearing in mind that punishment is also intended to encourage resocialization of the persons sentenced, my country believes that that goal becomes more elusive if prisoners serve their sentences in countries whose languages they do not speak or understand, which further hampers their ability to communicate with their surroundings. Furthermore, it should not be forgotten that most of the countries in which sentences are being served are geographically far from Serbia, which makes family and relatives' visits much more difficult and, in some cases, impossible. That is the main cause of complaints addressed to the Government of the Republic of Serbia by prisoner families.

Let me also point out that all the results of my country's years of cooperation with the Tribunal indicate, writ large, the seriousness of the Republic of Serbia and its readiness to accept international supervision of sentences being served and to provide firm guarantees that sentenced persons will not be paroled without the requisite decisions of the ICTY, the International Residual Mechanism or some other organ or body of the United Nations to be charged with those issues in future.

The countries that emerged on the territory of the former Yugoslavia, including the Republic of Serbia, are not in a position to conclude agreements with the Tribunal on the enforcement of sentences, even though ICTY President Theodor Meron said in his report that the Tribunal had signed such agreements with 17 countries and emphasized the need for continued efforts towards signing a number of new agreements sufficient to enable successful completion of the Tribunal's mandate. President Meron also noted in his report that those States that had concluded such agreements were praised in resolution 1993 (2011) and urged those that had not done so to conclude them.

Since 2009, the Republic of Serbia has insisted on signing an agreement on the enforcement of sentences and is actively working on the initiative to have those sentenced by the Tribunal serve their sentences in their own country. Serbian officials of the highest rank have repeatedly appealed to United Nations and ICTY officials, but there has , regrettably, been no breakthrough of scope or significance in that regard.

The Republic of Serbia believes that the main reason for the stalemate is the Secretary-General's May 1993 recommendation to the Council to the effect that "the enforcement of sentences should take place outside the territory of the former Yugoslavia" (*S/25704, para. 121*). Even if that position could have been considered justified in 1993, when the winds of war ripped through the former Yugoslavia, it is clear that it long ago lost its validity.

Today the Republic of Serbia is a democratic country. It has on numerous occasions demonstrated its commitment to, and capacity to comply with, its international obligations, including the punishment of those responsible for crimes as well as the enforcement of sentences in accordance with European standards. I wish to point out that, as it has done in the past, the Republic of Serbia will continue to comply with its obligations, both in its cooperation with the ICTY and with the International Residual Mechanism, the ICTY branch that is expected to begin its work on 1 July 2013.

To conclude, let me say that the Republic of Serbia would be grateful if the members of the Council would re-examine the recommendation made by the then Secretary-General 20 years ago and would allow Serbia to be placed on the list of countries that have indicated to the Council their willingness to accept convicted persons under the full supervision of the Tribunal.

The President: I now give the floor to the representative of Bosnia and Herzegovina.

Ms. Čolaković (Bosnia and Herzegovina): At the outset, allow me to welcome the Presidents and Prosecutors of both Tribunals and express my gratitude for their reports (S/2013/308, S/2013/309, S/2013/310) and briefings today. I would like to underline the great contribution made by all of the staff of the Tribunals and commend their efforts for the successful completion of the Tribunals' mandates. My thanks also go to the Guatemalan delegation for its work as chair of the Informal Working Group on International Tribunals.

Just this past month, we celebrated 20 years of the existence and 19 years of the operation of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) — anniversaries whose importance goes beyond the two ad hoc Tribunals. In reality, their significance stands as testimony to and a living embodiment of the spirit and promise of Nuremberg, carried forward into the twenty-first century. The triumph of justice over vengeance was the legacy of that post-Second World War tribunal. It complemented The Hague and Geneva Conventions through the principles and precedents it established, eventually serving as an inspiration and foundation for both the Tribunals and the International Criminal Court (ICC).

Bosnia and Herzegovina welcomed the establishment of the ad hoc International Criminal Tribunal for the Former Yugoslavia as a legal framework to ensure accountability and bring to an end a tragic period for all of the peoples living in Bosnia and Herzegovina. The Tribunal's determined message, namely, that crimes committed in the former Yugoslavia will be punished consistently and without exception, has been heard loud and clear. The same can be said about the ICTR and its contributions to reconciliation and sustainable peace in its region.

In accordance with what I have just said, the authorities in Bosnia and Herzegovina have consistently and constructively cooperated with the Hague Prosecutor and the Tribunal since the end of the war. That cooperation has been positively assessed in the relevant periodic reports and noted in the latest report of the Prosecutor. However, we take note of all of the other assessments and concerns that the Prosecutor has raised and remain fully aware that a great deal still remains to be done. I wish to recall that Bosnia and Herzegovina carries the greatest burden of prosecutions for war crimes. Still, since 2005, when the Court of Bosnia and Herzegovina became fully operational, measurable progress has been made in processing war crimes, and over 200 cases have been successfully concluded. However, according to the relevant statistics of domestic and international actors, there are a large number of war crimes to be prosecuted in domestic courts.

Nevertheless, the fact remains that the National Strategy for War Crimes requires an improved approach to implementation and to meeting deadlines. The capacity of the Bosnia and Herzegovina system to process war crimes cases fairly and in line with international and national standards is not in question. However, stronger efforts need to be made to effectively increase the overall pace of the processing of cases at both the State and the entity levels. As the Tribunals are steadily heading towards their closure, the duty to continue the fight against impunity and enhance the reach of justice falls more fully on credible national prosecutions. To that end, let me assure the Council that our common goal remains that of ensuring that all crimes committed are investigated and prosecuted and the perpetrators appropriately punished. Given our unfortunate first-hand experience, Bosnia and Herzegovina remains resolutely faithful to those principles.

As regional cooperation plays an additional important role in that respect, we are certain that the Protocol on the exchange of evidence and information on war crimes, recently signed between the respective Prosecutor's Offices of Bosnia and Herzegovina, Serbia and Croatia, will give an impetus for strengthening communication and further enhancing coordination. My country remains dedicated to the further promotion and intensification of regional cooperation, given that that is in the joint interests of the countries in the region.

Moving to the issue of the completion of the work of both Tribunals, we note the exceptional efforts that the Tribunals continue to make to successfully complete their work and make the full transition to the Residual

Mechanism, fully mindful of the highest standards of due process. It is our hope that further delays will be avoided by progressively fulfilling the remaining judicial functions. Victims and their families have waited long enough, and some are still waiting for the opportunity for redress and closure. Further delays only undermine the solemn promise that justice will unconditionally be served.

Finally, it is our hope that some lessons have been learned. In that regard, I wish to remind the Council of the words of Prosecutor Robert H. Jackson at the Nuremberg trials, warning that: "The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating that civilization cannot tolerate their being ignored, because it cannot survive their being repeated". That is a message we need to carry with us in these turbulent times. As for the Tribunals, one of their ultimate contributions will be to demonstrate that administering justice can contribute to reconciliation, in the Balkans and elsewhere. We can only hope that the pioneering role of the two Tribunals will be confirmed and expanded worldwide by the ICC.

The President: I now give the floor to the representative of Croatia.

Mr. Vilović (Croatia): We appreciate the comprehensive reports (S/2013/308, S/2013/309, S/2103/310) of the Presidents and Prosecutors of the International Tribunals on the work of the Tribunals during the reporting period, on the status of the cases before them, as well as on measures undertaken in the implementation of the completion strategy. The recent twentieth anniversary of the establishment of the International Criminal Tribunal for the Former Yugoslavia (ICTY) certainly presents an appropriate opportunity for a more comprehensive assessment and stocktaking of past activities, lessons learned and overall achievements of the Tribunals. In that context, we thank you, Sir, for having opened this debate up to the broader membership, albeit not in the format of an open debate.

It is a well-known fact that Croatia advocated for the establishment of the ICTY from the very beginning. We wholeheartedly supported the strong determination of the international community to finally, once and for all, put an end to the culture of impunity that had for so long accompanied wars and armed conflict. The establishment of the Tribunals was a clear indication that a new era had arrived — an era in which it was not important any more how high-ranking or influential perpetrators of grave breaches of international humanitarian law were, but what the record of their actions was. It is not an exaggeration to say that precisely the establishment of the Tribunals, whose work we are discussing today, forever changed the landscape of international criminal justice and introduced a whole new system with the International Criminal Court at the head.

With high hopes and expectations at the time of its creation, Croatia also strongly supported the main purpose of the ICTY — the prosecution and punishment of the individuals most responsible for acts of genocide, war crimes and crimes against humanity, as well as delivering justice for the victims of those crimes. Equally so, Croatia supported the Tribunal's more global functions aimed at the restoration and maintenance of peace and stability in the region, as well as the promotion of justice and reconciliation. Those are goals and hopes that we have supported and nourished at the time of the Tribunal's establishment 20 years ago and that we support and nourish even more today.

Croatia welcomes the results achieved by the ICTY to date and, in particular, the fact that all those indicted by the Tribunal have been arrested and transferred to its custody. It is encouraging to know that a number of high-level perpetrators of the most heinous crimes in our region have met their destiny in The Hague Chambers and are now coping with if in prisons around the world.

At the same time, it is only fair to say that the road towards the noble and ambitious goals that the Tribunal set for itself was neither straightforward nor easy. Being a pioneer in the interpretation and application of international humanitarian law, as well as international criminal law, the Tribunal unavoidably encountered a number of substantive and procedural questions, the answers to which were not always clear or immediate. In that context, let me simply mention here the oft-criticized very long judicial processes, which have in some cases seriously undermined their own purpose. Although late justice is certainly better than no justice at all, such delays have interfered with the rightful expectations of the victims, but equally so with the rights of the accused to a fair and swift trial. Furthermore, the frequent modifications of the Tribunal's Rules of Procedure certainly did

not contribute to legal confidence, nor the clarity or simplicity of the procedures.

Finally, according to article 7 of its Statute, the main task of the Tribunal is to establish the individual responsibility of the accused. However, introducing new and untested concepts as criteria for determining that responsibility, artificially applied to this legal field and significantly altering the traditional command responsibility concept, and also introducing those new concepts only in the later stage of the Tribunal's proceedings, resulted, in our opinion, in a weakening of the Tribunal's authenticity and led the Tribunal to delve into political and historical assessments and interpretations with doubtful success.

In that context, and as we stated in our previous interventions, let me add that Croatia follows with particular attention the new jurisprudence emerging from the Tribunals' work and its potential to shape future criteria for, inter alia, the lawful use of force and waging legitimate military action, including the general responsibility of military and political leaders. There is no doubt that the ensuing legal interpretations of that jurisprudence will have a serious impact on any future conduct of hostilities, as well as on noble efforts aimed at preserving or fostering international peace and security.

Let me now turn to the reports of the ICTY's President and Prosecutor (S/2013/308, annexes I and II), which we have in front of us today. We are pleased to note that, in paragraph 42 of his report, Prosecutor Brammertz has once again recognized Croatia's full and unequivocal cooperation with the Office of the Prosecutor and stressed that "the Office of the Prosecutor continues to rely on Croatia's cooperation to efficiently complete trials and appeals." We will indeed continue to cooperate as recorded and render our full support to the Tribunal. It is also a pleasure to inform you, Mr. President, that Prosecutor Brammertz visited Croatia between 22 and 24 May for the annual conference of prosecutors from the former Yugoslavia held in Brijuni, where they continued their discussions on issues of mutual relevance.

Croatia is aware that the cooperation of the States in the region remains crucial for the successful accomplishment of the Tribunal's mandate and, in that context, stands ready to lead by example. At the same time, enhanced regional cooperation in the area of war crimes and related issues represents one of the important legacies of the Tribunals. We are ready to continue mutual cooperation in that important area, according to the generally accepted principles of international criminal law and with the full respect of relevant national jurisdictions and competencies.

Finally, let me conclude by saying that my country, although not always necessarily pleased with all the procedures, rulings or decisions of the ICTY, has at all times cooperated with the Tribunal to the best of its abilities, fully respecting its decisions and never challenging them outside the stipulated procedures. And that is exactly what we are going to do until the final fulfilment of the ICTY's mandate and that of International Residual Mechanism for Criminal Tribunals.

The President: I now give the floor to His Excellency Mr. Thomas Mayr-Harting, Head of the Delegation of the European Union to the United Nations.

Mr. Mayr-Harting: I have the honour to speak on behalf of the European Union (EU) and its member States. The acceding country Croatia; the candidate countries Turkey, the former Yugoslav Republic of Macedonia, Montenegro and Iceland; the countries of the Stabilization and Association Process and potential candidates Albania and Bosnia and Herzegovina; as well as Ukraine, the Republic of Moldova and Georgia, align themselves with this declaration.

We would also like to thank the Presidents and Prosecutors for their reports (S/2013/308, S/2013/309, S/2013/310) and briefings. They illustrate the unwavering commitment and tireless efforts of both Tribunals in support of the fight against impunity for the most serious crimes.

We remain steadfast in our support for international criminal justice. Ending impunity for serious crimes is indispensable to building sustainable peace and reconciliation. Victims of mass atrocities deserve justice and rehabilitation, and those who commit the most serious crimes must know that they will be held accountable.

The achievements of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) represent a landmark in that regard. The case law from the ICTY and the ICTR has contributed greatly to the development of international criminal law. Moreover, the Tribunals were a catalyst for the negotiations on the

Rome Statute and the establishment of the International Criminal Court. We pay tribute to the Tribunals' achievements and contributions to the fight against impunity.

Since its establishment 20 years ago, the ICTY has made a remarkable contribution to peace and reconciliation in the Western Balkans, as well as to the development of international criminal justice. It has given a voice to the victims, especially women and children.

The ICTY has also set new standards for providing assistance and support to victims, as well as for capacity-building and outreach. Those projects are important for the Tribunal's legacy. The European Union contributes to the ICTY Outreach Programme for 2013 and 2014.

Progress has been more uneven in the transition to national war crimes prosecutions. Regrettably, some Western Balkan countries continue to face difficulties in prosecuting war crimes cases. Some also suffer from significant backlogs. The European Union has repeatedly emphasized the importance of local ownership and that remains essential. Building the necessary national capacity and increasing public awareness are important elements in that respect, and further efforts are needed.

The International Criminal Tribunal for Rwanda has made an invaluable contribution to our shared goal of ending impunity for genocide crimes and has played a key role in strengthening the rule of law and promoting long-term stability and reconciliation. The apprehension of the remaining fugitives must, however, remain a priority. We reiterate our calls for the effective cooperation of all States concerned, particularly those in the Great Lakes region.

We welcome the transfer of cases to the domestic Rwandan courts for prosecution. To be successful, that process requires the ongoing commitment of both the Rwandan authorities and the international community. More progress must be made in reforming the genocide ideology law, while promoting a future based on genuine reconciliation. If the Rwandan courts are seen to be conducting fair, impartial trials, that will be a significant step forward in the country's transitional process and a major lesson for other countries engaged in transitional justice reform and peacebuilding.

In order to preserve the important achievements and legacy of the ICTY and the ICTR, we support the process establishing the Residual Mechanism of both Tribunals in accordance with resolution 1966 (2010). In that regard, we welcome the launch of the ICTY branch of the Residual Mechanism in The Hague, which will begin to function on 1 July.

We will continue to strongly support both the principle and system of international criminal justice and its integral role in the reconciliation process, and we call on all States to do the same.

The President: I now give the floor to the representative of Liechtenstein.

Mr. Wenaweser (Liechtenstein): The initiative to request today's debate originated with the Accountability, Coherence, Transparency Group (ACT), which is dedicated to enhancing the Security Council's working methods. While we appreciate this opportunity to speak, we find it unfortunate that Council was not able to accede to the request of 17 States to hold this important discussion in the context of an open debate, especially given the twentieth anniversary, in late May, of the establishment of the International Criminal Tribunal for the Former Yugoslavia (ICTY). This is a good opportunity to reflect on the work and impact of the ICTY, on the Council's future work on accountability and on the lessons that the experience with the ad hoc Tribunals has taught us.

I have the honour to speak today on behalf of Albania, Austria, Belgium, Bosnia and Herzegovina, Chile, Costa Rica, Croatia, Estonia, Finland, Hungary, Ireland, Jordan, Montenegro, the Netherlands, Norway, Papua New Guinea, Peru, Slovenia, Sweden, Switzerland, Timor-Leste and Uruguay, as well as my own country, Liechtenstein.

The establishment of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) was a milestone in the history of international criminal justice. In that way, the Council acknowledged for the first time that accountability for the most serious crimes under international law is an integral part of the maintenance of international peace and security. In so doing, it asserted itself as the key player it is today in the area of accountability, including through its referral power under the Rome Statute of the International Criminal Court (ICC). The ad hoc Tribunals, in turn, made history through their judicial work, for example, with the first trial against a former head of State before an international tribunal, as well as through ground-

breaking cases such as the *Akayesu* verdict, which established sexual violence as a form of genocide. The Tribunals have also been important for victims, whose sufferings have been acknowledged and whose dignity has, in some measure, been restored. The International Criminal Court built on that experience and enhanced the capacity of the Court by ensuring victims a participatory role in its proceedings.

Without any doubt, the experiences and lessons learned from the ad hoc Tribunals are of great significance to the work of other international tribunals, as in the case of the ICC. However, it is too early to assess the full legacy of either Tribunal, given that some of the most prominent cases are still in the trial phase. At the same time, especially in recent months, their work reminds us that the worst crimes under international law are difficult to prove beyond a reasonable doubt, and that every defendant has the right to due process. If some aspects of the work of the Tribunals continue to be the subject of controversy, that should not cloud our overall judgement or diminish their historical importance.

We firmly believe that the Council should continue to be a key player in ensuring accountability for the most serious crimes under international law. Part of that work will be carried out pursuant to the Council's referral power under the Rome Statute, but there are many other ways in which it — and, indeed, other United Nations organs — can work effectively to ensure accountability, particularly by enhancing the capacity of States that are willing to fight impunity through their national judiciaries. It is very likely, and in our view desirable, that the era of ad hoc Tribunals will soon come to an end. The Council has moved on to different types of accountability work and should continue on that path. But it is essential that we draw some key conclusions from the chapter written by the ad hoc Tribunals.

First, international criminal justice requires diplomatic support and follow-up on the part of the relevant States and institutions. That is particularly important where arrests of indictees are concerned, since they can be carried out only by Member States and will not happen unless States muster the political will and join forces to do so. The history of the ICTY illustrates very clearly that arrests do not happen unless States decide to put their political weight behind the enforcement of arrest warrants. With regard to the International Criminal Court, the Council acknowledged this in adopting its most recent presidential statement on the protection of civilians (S/PRST/2013/2). In concrete cases, however, such follow-up is still often insufficient or lacking altogether.

Secondly, there must be a solid financial basis for international criminal justice mechanisms. The fact that all States Members of the United Nations were obliged to fund the ad hoc Tribunals, for which we have all paid just about $4 billion, was an indispensable part of their functioning. The experience with other international criminal justice mechanisms clearly shows that voluntary funding models do not work. Not only are such tribunals pretty much constantly in financial difficulties, which can delay judicial work, but the voluntary funding can also lead to questions concerning their judicial independence. Any serious accountability work undertaken by the Council in the future should therefore have a solid financial foundation. That means in particular that future ICC referrals should be financed by the United Nations membership as a whole, especially given that those costs are significantly lower than they would be under any new ad hoc mechanism.

Thirdly, for international criminal justice to be effective, there must be ownership in the affected countries. The best way of achieving that is to strengthen national capacities where countries are willing to fight impunity themselves, but lack the means to do so. The experience of the past 20 years has shown that the international community has numerous possible ways to help national justice processes in countries seeking to come to terms with past crimes. They range from hybrid tribunals of the sort employed in Sierra Leone and Cambodia to entities that work entirely within the affected country's legal system, such as Guatemala's Commission against Impunity and the Court of Bosnia and Herzegovina. If a permanent effect is intended, as it should be, investing in national mechanisms also gives the best return for the money invested. International justice and local solutions are not mutually exclusive. Indeed, given the principle of complementarity, such solutions can even be used in conjunction with an ICC referral or in cases where the Court already has jurisdiction, to the benefit of both the ICC and the national processes. This would allow the Court to step in should the local or hybrid solution prove to be unsatisfactory, or indeed unavailable.

Finally, from the perspective of the Council's working methods, the existence of the Informal Working Group on International Tribunals is noteworthy. It is

an important space in which to discuss the interaction between the Council and the international justice mechanisms it has created. We believe, however, that the Security Council should take a broader approach and establish ways of discussing other accountability issues, be they in a purpose-designed working group or in the framework of the Informal Working Group on Tribunals, not least in the light of the institutional linkages between the Council and the ICC. Given the high importance that the Council appears to attach to issues of accountability, they should also be reflected more prominently in the mechanisms through which it communicates with the public, in particular its annual report, the most important tool in that respect. A better reflection on the website would also be helpful. Having the necessary mechanisms in place is one prerequisite for the Council to continue effective accountability work — political will, of course, is another.

The creation of the ICTY 20 years ago was the dawn of the age of accountability. At the heart of this age of accountability is also a realization that issues are intricately linked with international peace and security. We therefore hope that the Security Council will draw the necessary lessons from the past 20 years and continue to make accountability for the worst crimes under international law a priority in its work.

The President: I now give the floor to the representative of the Netherlands.

Mr. Van Den Bogaard (Netherlands): The Netherlands thanks you, Sir, for the opportunity to speak today at this meeting of the Security Council on the International Tribunals for Rwanda and the former Yugoslavia.

We align ourselves with the statements made by the observer of the European Union and the representative of Liechtenstein.

The great interest of States in the debate is an unmistakable sign of the importance that the international community attaches to both Tribunals and their goals. Twenty years ago, the Council recognized that mass slaughter and ethnic cleansing amount to a threat to international peace and security. By creating both Tribunals, the Council courageously undertook to address the most serious international crimes. The result has profoundly changed the international debate. Impunity is no longer acceptable, and the international community has entered into an age of accountability. The work of the two Tribunals has almost come to an end.

The Netherlands today wishes to pay tribute to the Council for having adopted the two relevant resolutions; to the international community for its support; and to those at the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their work in making the vision of the Tribunals come true.

The ICTR has significantly broadened international criminal jurisprudence by being the first court to prosecute suspects for the crime of genocide, by demonstrating that rape may be an act of genocide and by considering the criminal responsibility of the media. It contributed significantly to developing the law regarding criminal responsibility in non-international armed conflict.

The ICTY has been equally successful. All of the indicted have been brought before the Tribunal, including several long-term fugitives. It has contributed substantially to the penalization of grave breaches of international humanitarian law and the further development of customary laws of war.

The Netherlands is proud to host the ICTY and the Appeals Chamber of both Tribunals, and has always been a staunch political supporter of both Tribunals. At the celebration of ICTY's twentieth anniversary held in The Hague last month, in the presence of King Willem-Alexander, various speakers emphasized how crucial the continued political pressure on all parties concerned to cooperate with the Tribunal has been in enabling it to carry out its mandate effectively.

Allow me therefore to seize this opportunity to stress the importance of political, diplomatic and financial support to those and other tribunals. The Council, by being instrumental in establishing them, has a solemn responsibility to ensure that they can do their work. International justice cannot and should not be limited because of lack of political backing from the international community, nor should it be hampered by financial constraints resulting from a system of voluntary financing that threatens the delivery of justice to the communities concerned. There must be a solid financial basis for international criminal justice mechanisms and their residual mechanisms.

The establishment of the International Residual Mechanism for Criminal Tribunals is essential to ensure

that there will be no impunity for remaining fugitives and that appeals will be completed and witnesses protected, well after the closure of the Tribunals.

The historical importance of those two United Nations Tribunals cannot be underestimated. Their legitimacy and their legacy are beyond dispute and will continue to shape international relations for many years to come. The Tribunals have confirmed the principle of accountability for the most serious international crimes by imposing punishment on those responsible and giving victims unprecedented access to justice. They have demonstrated the prevalence of the rule of law in communities affected by such heinous crimes.

The Netherlands remains firmly committed to the fight against impunity for the most serious international crimes, both domestically and internationally. We count on the Security Council to do the same.

The President: There are no more names inscribed on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 1.15 p.m.